MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("**MOU**") is acknowledged by and among the Board of Regents of the Nevada System of Higher Education, on behalf of the UNIVERSITY OF NEVADA, LAS VEGAS ("**UNLV**"), AVS HOUSING GROUP, LLC, a Nevada limited liability company ("**AVS**"), and EDUCATIONAL FACILITIES DEVELOPMENT SERVICES NV I, LLC, a Nevada limited liability company ("**EFDS**"). For purposes of this MOU, each of UNLV, AVS, and EFDS shall be referred to as a "**Party**," and altogether UNLV, AVS, and EFDS shall be referred to as the "**Parties**." This MOU shall become effective when executed by AVS, EFDS and approved by the Board of Regents (as defined below) at a noticed public meeting ("**MOU Effective Date**").

RECITALS:

A. On June 4, 2010, UNLV issued its Request for Proposal No. 465-KO (the "**RFP**") seeking proposals from qualified contractors to provide research and analysis, planning, management, operation, construction, financing, and/or renovation services with respect to on and off-campus student housing serving UNLV.

B. On June 24, 2010, AVS submitted its proposal (the "**Proposal**") in response to the RFP. UNLV thereafter accepted the Proposal as the one best suiting UNLV's interest. Accordingly, on October 28, 2010, UNLV and AVS entered into a Contract for Consulting Services under which AVS is UNLV's exclusive vendor for on and off campus student housing, as more fully set forth therein (the "**Master Agreement**").

C. Pursuant to the Master Agreement, AVS completed the AVS Phase I: Student Housing Market & Demand Analysis, dated April 27, 2013, and the final AVS University Campus Housing Plan, dated January 30, 2013. The recommendations of both documents were integrated into the *2012 Campus Master Plan Update*, approved by the Board of Regents (the "**Board of Regents**") of the Nevada System of Higher Education ("**NSHE**") on November 29, 2012, which calls for approximately 3,500 to 4,000 beds of housing for current full-time undergraduate and graduate students in campus core, student/university village, midtown district and faculty/student family village campus housing neighborhoods.

D. In accordance with the Master Agreement, UNLV and AVS also entered into a Property Management Agreement dated as of January 1, 2013 (the "**Property Management Agreement**"), pursuant to which UNLV retained the services of AVS for the management, marketing, maintenance, and operation of such on and off-campus student housing serving UNLV as may be added during the term of the Property Management Agreement.

E. The Master Agreement also calls for "Phase III" development and/or management based upon the findings from the completed Student Housing Market & Demand Analysis, dated April 27, 2013 and the completed Campus Housing Plan, which allows UNLV and AVS to negotiate an agreement for the development of new facilities and/or the renovation of existing facilities and/or the collaborative management of those housing facilities. Under the Master Agreement, it is anticipated that the financing of all development, building and renovation, project, and financing costs would be, in most cases, the responsibility of the Successful Respondent, and agreements would need to be made regarding any specific financial elements of development operations (e.g., revenue sharing, development operations funding of student residential life component costs, etc.).

F. The Board of Regents is subject to existing obligations relating to tax exempt financing for its student housing, which include rules and regulations to assure reasonable occupancy, as well as conditions relative to competing facilities.

G. In furthering its efforts to provide the services solicited under the RFP and as set forth in the Master Agreement, AVS has now identified certain firms to assist it. The pertinent firms include (without limitation) The James Megellas Foundation, Inc., an Arizona non-profit corporation not affiliated with, or to be affiliated with, UNLV (with its subsidiaries and affiliates, the "**Foundation**"), EFDS (including EFDS Management Services Nevada, LLC and one or more other subsidiaries and affiliates), CORE Construction, Inc., an Arizona business corporation, and others from time to time independently engaged by AVS (altogether, the "**AVS Parties**").

H. AVS, after reviewing the credentials, experience, and capabilities of the AVS Parties and their principals, and after determining that the AVS Parties are highly qualified to construct public facilities in the manner and within the time frame set forth in this MOU, has independently engaged the AVS Parties to serve AVS in executing a multi-phase program for the development of student housing for UNLV ("**Housing Development Program**").

I. The Housing Development Program will include two or more phases of student housing for UNLV students (each phase shall be known for purposes of this MOU as a "**Component**," and all phases collectively known for purposes of this MOU as the "**Components**"), which Components may include student housing facilities and related amenities and commercial development intended to serve the residents of the student housing facilities.

J. It is contemplated the first Component of the Housing Development Program ("**Component A**") would consist of (i) the "Component A" housing improvements generally described Section 2.1to this MOU, all of which Improvements (defined below) are currently contemplated by the Parties to be located within the areas indicated as "Site A" on <u>Exhibit A</u> attached hereto; and (ii) retention of some portion of existing housing units on the Site indicated as "Site B" as set forth on <u>Exhibit A</u>. AVS and the AVS Parties intend to diligently pursue the planning, development, financing, and construction of Component A, subject to certain terms and conditions set forth below.

K. Subject to the conditions for development set forth in this MOU, it is contemplated the second Component of the Housing Development Program ("**Component B**") would consist of the "Component B" housing improvements generally described in Section 2.3of this MOU, which would require demolition of the existing housing units comprising a portion of Component A as identified in Section J above, all of which Improvements are currently contemplated by the Parties to be located within Site B. AVS and the AVS Parties intend to diligently pursue the planning, development, budgeting and construction of Component B, and any additional Components, subject to certain terms and conditions set forth below.

L. Site A and Site B together shall be known for purposes of this MOU as "the **Site**." The Site is identified as "Housing and Student Life" within UNLV's *2012 Campus Master Plan Update* as approved by the Nevada System of Higher Education Board of Regents on November 29, 2012. UNLV attests that the Housing Development Program contemplated by this MOU will further the goals of, the *2012 Campus Master Plan Update*.

NOW, THEREFORE, the Parties, by their signatures set forth on this MOU, hereby acknowledge all of the following, including the goal and objectives for development of the Components, and the general framework for the development phases of the same.

1. <u>Goals and Objectives</u>. Subject to: (i) UNLV commissioning an independent analysis expected no later than August 31, 2013 indicating, to the satisfaction of the Board of Regents, that the implementation of the Housing Development Program will not materially adversely affect the net revenues received and to be received by NSHE from existing student housing located on the UNLV campus financed by bonds issues by NSHE; (ii) UNLV commissioning an appraisal valuing the Real Property (defined below) at no less than the Purchase Price (defined below) and (iii) UNLV conducting due diligence related to the Housing Development Program and presenting a report of such evaluation to the Board of Regents which includes review of (a) the AVS Parties' financial business plan and operational pro-forma for Component A; (b) an independent market study commissioned by the AVS Parties demonstrating demand for the Housing Development Program and the specific rental rates contemplated and utilized as the basis for the project's financial business plan; (c) an appraisal commissioned by the AVS Parties; and (d) any other documents reasonably requested by UNLV; and subject also to negotiation and approval of the Implementing Agreements (defined below) by the AVS Parties and the Board of Regents, the Parties acknowledge the following goals and objectives for development of the Components: (i) designing and constructing buildings to meet or exceed the standards for on-campus student housing projects that are being constructed at peer institutions of UNLV, such as the Vista del Sol student housing project at Arizona State University, and consistent with the design and finishes represented to UNLV; (ii) preserving, as far as possible, *ad valorem* tax exemptions for all Components; (iii) obtaining financing that is secured by EFDS's interests in the Ground Lease(s) (defined below), but that is non-recourse as to UNLV's interest in the fee simple absolute title to the Site (as acquired by UNLV in the manner and at the time contemplated by this MOU); (iv) using tax-exempt financing whenever possible in an effort to obtain low-cost financing that, while highly cost-effective, is not a direct or indirect financial obligation of UNLV; and (v) developing each Component so that it meets specific timeframes and budgets agreed by the Parties. No Party shall have the obligation to expend funds or proceed with the actual construction of any Component until all of the conditions set forth in this Section 1, and all conditions set forth in the Implementing Agreements have been satisfied.

2. <u>Deliverables</u>.

2.1 It is the intent of the Parties that all existing improvements located on the Site necessary for the construction of Component A will be demolished prior to construction. Component A shall consist of approximately 1900 – 2,000 upper class student housing beds. The unit configuration will include 2-bedroom/2 bath, 4-bedroom/ 2 bath, and 4-bedroom/4 bath units. All units will be "apartment style," and include kitchen facilities and a living room, with final location, configuration and parking requirements to be included in the Implementing Agreements.

2.2 For all remaining units on the Site (the "**Existing Units**"), the Parties will negotiate an agreement for such units to be managed and operated by the AVS Parties, and, over an appropriate transition period, to become housing for UNLV students and employees (the "**Transition Agreement**"). The Parties will negotiate appropriate agreements so that revenue from rental of the Existing Units during the term of the applicable Ground Lease are allocated toward making Component A financially viable. Upon expiration of the Transition Agreement, the Existing Units would be marketed as campus housing. It is contemplated that until such time as Component B is developed or the AVS Parties' option to develop Component B is terminated and the Existing Units are demolished (as fully set forth in Section 4.2.1 of this MOU), the Existing Units would be owned, operated and managed by AVS under the Master Agreement or under some form of agreement to be negotiated that is similar to the Marketing and License Agreements contemplated by this MOU.

2.3 Subject to the conditions set forth in Section 3 of this MOU, Component B shall consist of a minimum of 1,000 beds. It is anticipated that unit configuration will be "apartment style," with kitchens and living facilities. Unit makeup will be studio and 2-, 3, and 4-bedroom units, with final location, configuration and parking requirements to be included in the Implementing Agreements.

2.4 Project amenities for both Components will include upgraded furnishings, internet, cable, oversized community pool, athletic facilities, washer/dryers, and community rooms.

3. Financing, Constructing, and Conveying Each Component; No Liability of UNLV/NSHE for Bond Financing. An independent nonprofit entity (the Foundation, including its subsidiary or affiliate) not affiliated with or to be affiliated with UNLV will serve as the owner of the Improvements and as borrower. (The purposes of Foundation include (i) constructing facilities for various educational entities, (ii) accepting donations, grants, endowments, and other monies for designated public entities, (iii) holding and administering the same, and (iv) in connection therewith, setting up student scholarships and otherwise providing funding for community programs and facilities.) Subject to the terms of this MOU, the Foundation, acting variously through, in concert with, and at the direction of EFDS (including EFDS Management Services Nevada, LLC and one or more other subsidiaries and affiliates) and according to the terms of this MOU: (i) would acquire fee title to the Site from its current owners, two principals of AVS, (ii) would obtain necessary financing for the pertinent Components, (iii) would transfer ownership of the Real Property comprising the Site to UNLV, (iv) would obtain prepaid Ground Leases for Site A and Site B; (v) would construct Component A on that portion of the Site comprising Site A, (vi) would enter into a Marketing and License Agreement concerning the Component A Improvements to be effective upon issuance of a certificates of occupancy for Component A, (vii) upon achieving at least two consecutive years of occupancy at 90% or greater as to Component A, and subject to an independent market feasibility study indicating that the addition of Component B will not materially harm either Component A or University housing, would construct the Component B Improvements during the time period set forth in Section 4.2.1 below on that portion of the Site comprising Site B; and (viii) would extend the Ground Lease for Site B and enter into a Marketing and License Agreement concerning Component B to be effective upon issuance of a certificates of occupancy for Component B. Upon expiration or earlier termination (as set forth in Section 7) of the contemplated Ground Leases, UNLV would own the Improvements comprising Component A and Component B (if any), and the Existing Units (if any), with no further involvement on the part of EFDS.

The Parties agree that neither UNLV nor NSHE will have any liability, express or implied, for the payment of principal of, premium, if any, or interest on the bonds or other financing used for the Components or Sites, nor shall UNLV or NSHE be responsible or liable, expressly or impliedly, for any other obligations of any Party, under any of the bond or other financing documents, or under any other documents delivered in connection with the issuance of the bonds or other financing, or for the Components or Sites. This MOU does not contemplate that any of the Implementing Agreements between (i) any of the AVS Parties and (ii) UNLV or NSHE, or otherwise involving UNLV or NSHE, will contain any leaseback, sublease, minimum occupancy agreement or other arrangement that could require that UNLV or NSHE make any payments of their monies of amounts that are used to directly or indirectly pay the bonds or other financing for the Components or Sites, excluding the $17,000,000 purchase price paid for the Real Property.

4. Purchase and Sale Agreement.

4.1 UNLV and the Foundation would enter into a Purchase and Sale Agreement (the "**PSA**") governing UNLV's purchase of the Site. The PSA shall contain the following minimum provisions to be fully negotiated by the Parties and approved by the Board of Regents:

4.1.1 Contingent upon an appraisal for the Site valuing the Real Property at no less than seventeen million dollars ($17,000,000) and contingent upon UNLV's diligent and thorough inspection of the Real Property, including inspection of all title matters, the purchase price shall be seventeen million dollars ($17,000,000) (the "**Purchase Price**").

4.1.2 Upon execution of the PSA, the Purchase Price shall be placed into escrow and shall be governed by joint escrow instructions that include, among other things, a closing date occurring: (i) upon EFDS obtaining financing for the Component A Improvements (which shall be defined in the PSA to indicate the time in the borrowers financial agreements where all conditions precedent have been satisfied or waived, all appropriate documents executed and drawdowns become permissible); and (ii) upon UNLV receiving adequate assurances that Component A will be fully financed ,built, equipped and operational within an agreed upon time frame, which shall include, but not be limited to: (a) evidence of full financing; (b) binding construction contracts; (c) applicable insurance policies; and (d) acceptable completion guarantees, whether in the form of completion bonds or equivalent, at which time the Purchase Price shall be paid in full to the Foundation (the "**Closing Date**").

4.1.3 On the Closing Date, (i) fee simple title to the Real Property comprising the Site shall be conveyed to UNLV by warranty deed in form and substance satisfactory to UNLV and recorded in the Official Records of Clark County, State of Nevada. The fee simple title to the Real Property granted to UNLV shall be free of any and all prior liens and encumbrances, excepting only (i) liens on the Foundation's leasehold interest which are subordinate to the fee simple title to the Real Property comprising the Site (as held by UNLV), and (ii) any of the following (the "**Permitted Exceptions**")" (A) easements for public utilities serving the Site, (B) such other recorded easements, restrictions, or other encumbrances as would not materially and adversely affect marketability of title to the Site, and (C) any other encumbrance that may be approved by UNLV. UNLV's interests in fee simple title to the Real Property will be insured by a policy of title insurance in the form and substance and in an amount previously approved by UNLV issued by a mutually agreed upon title company; provided, however, (i) that the Foundation shall, during the Term of Ground Lease A (defined below), retain title to all Component A Improvements, (ii) that the Foundation shall, during the Term of Ground Lease B (defined below), retain title to all Component B Improvements and to the Existing Units, (iii) that UNLV shall simultaneously lease the Real Property comprising Site A back to the Foundation pursuant to Ground Lease A for the Ground Lease A Term (defined below), and (iv) that UNLV shall simultaneously lease the Real Property comprising Site B back to the Foundation pursuant to Ground Lease B for the Ground Lease B Term (defined below) .

4.1.4 UNLV and the Foundation shall enter into (i) Marketing and License Agreements for Component A and Component B for the term of the applicable Ground Lease, which such agreements shall be effective upon issuance of a certificate of occupancy for the respective Component; and (ii) a Transition Agreement with respect to the Existing Units.

4.1.5 EFDS and the other AVS Parties acknowledge and agree to comply with the prevailing wage provisions of Nev. Rev. Stat. Chapter 338 in the design, construction, development, maintenance and operation of any Component. EFDS and the other AVS Parties, as applicable, shall cause any General Contractor contracted under any binding Construction Contract for the construction of any portion of the Improvements on the Site to indemnify, defend, save and hold harmless, NSHE, UNLV and the Board of Regents, and the agents and employees of each of them, from any violation or alleged violation of any provision of Nev. Rev. Stat. Chapter 338. Any such General Contractor must demonstrate clear financial capability of meeting the obligations of this Section in order to satisfy UNLV.

4.2 Pursuant to the PSA, the Foundation will have an option to develop Component B on Site B until such time as one or the other of the following occurred:

4.2.1 Subject to the occupancy and independent market feasibility study requirements contemplated in Section 3, if the ninth (9th) anniversary of the issuance of a certificate of occupancy for Component A (the "**Component A Commencement Date**") occurred on or before the issuance of a certificate of occupancy for Component B (the "**Component B Commencement Date**"), then the AVS Parties' rights under the Implementing Agreements to develop Component B shall terminate and the AVS Parties shall cause the Existing Units to be demolished; however, EFDS would retain developments rights as to Site B, consistent with UNLV's needs (housing, academic, etc.) for the remainder of the Ground Lease B Term; or, alternatively

4.2.2 If, however, the Component B Commencement Date occurred before the ninth (9th) anniversary of the Component A Commencement Date, then Ground Lease B would be extended for thirty-five years from the Component B Commencement Date (unless earlier terminated as set forth in Section 7) and UNLV and the Foundation would enter into a Marketing and License Agreement for Component B for the Ground Lease B Term.

4.3 For purposes of this MOU, the "**Real Property**" comprising the Site shall include only the unimproved surfaces and subsurfaces of the described parcel of real property comprising the Site, with EFDS (or the Foundation or its subsidiary or affiliate) retaining, throughout the term of the pertinent Ground Lease, *all* right, title, and interest in and to: (i) those Component A improvements and Component B improvements (as the case may be) constructed by EFDS (or the Foundation or its subsidiary or affiliate) (in each instance, the "**Improvements**") comprising the pertinent Component, and (ii) the Existing Units.

5. Ground Leases.

5.1 On the Closing Date, UNLV and the Foundation would enter into ground leases, one each for Site A ("**Ground Lease A**") and, for Site B ("**Ground Lease B**") (each a "**Ground Lease**").

5.1.1 The terms of the Ground Leases shall be as follows (unless earlier terminated as set forth in Section 7): (i) for Ground Lease A, thirty-five (35) years from the Component A Commencement Date (the "**Ground Lease A Term**"); and (ii) for Ground Lease B, thirty-five (35) years from the Component A Commencement Date (the "**Ground Lease B Term**"), unless Component B is constructed and Ground Lease B is extended for thirty-five (35) years from the Component B Certificate of Occupancy.

5.1.2 Base Rent for each Ground Lease shall be ten ($10) dollars payable annually through the length of each respective Ground Lease Term.

5.1.3 The Foundation shall have rights and responsibilities associated with the ownership, operations and management of the Improvements and the Existing Units located on the pertinent Site.

5.1.4 The Foundation shall be responsible for all taxes that may be payable during and with respect to the respective Ground Lease Terms against (i) the Real Property, (ii) the

Improvements, (iii) during the Ground Lease B Term, the Existing Units, and (iv) any personal property of the Foundation located on the Sites, (iii) the leasehold estate(s) of the Ground Lease(s), or (iv) the Components, or that are otherwise attributable to the Foundation's business on the Sites, including (but not limited to) real property taxes, personal property taxes, general and special assessments, improvement district assessments, sales and use taxes, value added taxes, business and occupation taxes, and all other federal, state, country, and municipal levies, fees, assessments, or taxes that may be imposed. UNLV shall fully cooperate with the Foundation to apply for, prosecute, and obtain all exemptions that may be sought with respect to any such taxes, assessments, or impositions.

5.1.5 For a period of nine (9) years commencing on the Component A Commencement Date, UNLV would not negotiate with any other person or entity regarding the ground leasing or third party development of student housing for non-freshmen students. After such period, UNLV may, in its discretion, review, consider and/or negotiate with any other person or entity regarding the leasing, development, or redevelopment of on or off campus student housing, including the "Student Village," so long as an independent market study demonstrates demand for such housing and so long as Component A has achieved two consecutive years of occupancy at 90% or greater. If the Component B Commencement Date occurs within nine (9) years after the Component A Commencement Date, UNLV would not negotiate with any other person or entity regarding the ground leasing or third party development of student housing for non-freshman through a period extending for seven (7) years after the Component B Commencement Date. Nothing in this Section or in the Implementing Agreements shall prohibit or limit NSHE or UNLV from constructing, acquiring or otherwise developing on campus student housing for freshman students, or from acquiring off-campus housing for students existing as of the effective dates of the Implementing Agreements. The AVS Parties agree to cooperate with UNLV by providing any documents or information reasonably requested by UNLV in its commissioning of an independent market/demand study. Financing agreements of the AVS Parties shall be consistent with this provision and shall not limit UNLV's rights hereunder.

5.1.6 At the expiration or earlier termination (as set forth in Section 7) of each respective Ground Lease Term, title to the pertinent Component A and Component B Improvements would transfer at no cost to UNLV, and neither EFDS nor the Foundation would have no further rights or responsibilities associated with the pertinent Site, Improvements, or Component.

6. Marketing and License Agreements.

6.1 The Improvements comprising the Components (which do not include the Existing Units) shall be treated as campus housing at the Component A Commencement Date and the Component B Commencement Date, as applicable. The Parties believe that this goal can be best achieved through UNLV, or its designee, marketing the Components to new or existing students, managing the assignment of residents to the Component, and collecting rents. Therefore, on each of the Commencement Dates, UNLV and the Foundation would enter into a "Marketing and License Agreement" concerning the respective Improvements. Each Marketing and License Agreement would include the terms and conditions generally outlined on the Exhibit B attached hereto, together with the following provisions: (i) UNLV shall market the Components, respectively, in the same manner as the existing University housing, including the Components in all UNLV-housing related marketing materials as well as any on-line marketing activities; (ii) UNLV shall take reservations for the Components, respectively, from residents through its customary on-line reservation process, or successor system, as UNLV would for its own on-campus housing; (iii) UNLV shall not take or approve applications from freshman students for occupancy in the Components unless UNLV shall itself have granted specific permission to the pertinent student(s) to occupy a Component; (iv) UNLV shall use an adapted version of its customary residential contract, or successor forms, to lease the Components to residents; (v) UNLV shall be responsible for all out-of-pocket costs associated with marketing and licensing efforts; (vi) EFDS (or the Foundation or its subsidiary or affiliate) shall be responsible for operation and maintenance of the Components, respectively, throughout their respective Ground Lease Terms and will contract with AVS for such services to the extent required by the Master Agreement between UNLV and AVS, under which AVS has presented the opportunity for UNLV to participate in the Housing Development Program; and (vii) UNLV shall collect rent from Component residents in the same manner as with other University housing, and shall remit 96.5% of the total annual gross rents so collected to EFDS (or its designee(s)), retaining the remaining 3.5% as payment for its marketing and licensing efforts. Nothing in this Section or in the Implementing Agreements is intended to require UNLV to spend in excess of the amount of such 3.5% actually collected by UNLV (less any amount required to cover bad debts).

6.2 Rental rates would be set annually by EFDS.

7. Revenue Flow from Components. Revenues remitted by UNLV would be applied to fund or satisfy the following, in the indicated order, each in amounts and at such times as are agreed to by the Parties in accordance with the Implementing Agreements: (i) Foundation costs to administer the Components (including debt service); (ii) mandatory contributions to a debt service reserve fund required in connection with the applicable project financing; (iii) mandatory contributions to a capital repair replacement fund required in connection with the applicable project financing; (iv) any services fee, as payable under an operating and maintenance agreement complying with all IRS requirements governing compensation for services provided to bond-financed facilities (including, without limitation, Rev. Proc. 97-13; and (v) other operating costs. UNLV would have no liability for any shortfall of revenues remitted. Any net revenues remaining after distribution as set forth herein may be applied to retire the bond debt early, at which time the respective Ground Lease would terminate and all Improvements on the pertinent Site would transfer to UNLV as set forth in Section 5.1.6.

8. Operations and Management. Unless otherwise provided under the Marketing and License Agreement(s), EFDS, or its designee, would have all rights and responsibilities for the day-to-day staffing, operations and management of the Components. The Parties would work in good faith to allow UNLV to provide staff for the Components if it is found to be in the best interest of the Parties.

9. Parking. UNLV would make available parking passes at the annual published rate for Component A student residents to use parking facilities on the UNLV Campus. UNLV would not be responsible for parking associated with retail activities on the Site, if any, or for parking associated with any portion of Component B.

10. Representatives. Each Party shall appoint a single person to act as its principal representative. The persons so appointed shall be responsible for managing the negotiations contemplated by this MOU. UNLV's initial representative shall be Mr. Gerry Bomotti, Senior Vice President for Finance and Business; AVS's initial representative shall be Mr. Michael Saltman, President of Vista Group, Inc.; EFDS's initial representative shall be Mr. Steve Nielsen, its Senior Vice President for Development.

11. Good Faith Negotiation of Implementing Agreements. So long as they are consistent with existing financial, legal and contractual obligations of NSHE and/or UNLV, the Parties hereby agree that they shall negotiate in good faith the terms and conditions of the Implementing Agreements, the terms and provisions of which shall be subject to the approval of UNLV, AVS, EFDS (including, for purposes of this Section 11, the Foundation), and the Board of Regents. For

purposes of this MOU, the "**Implementing Agreements**" shall include: (i) the Purchase and Sale Agreement outlined in Section 4, above; (ii) the Ground Leases outlined in Section 5, above; (iii) the Marketing and License Agreements outlined in Section 6, above; and (iv) such other covenants, certificates, and other agreements as may be reasonably necessary to enable and to carry out the terms and conditions of all of the same. The Parties acknowledge that NSHE's obligations under the Implementing Agreements will be subject to NSHE's meeting its obligations under those resolutions that authorize bonds to which revenues of NSHE-owned housing have been pledged.

12. Requirement of UNLV Approvals. AVS and EFDS acknowledge (i) that the discretionary approval of the Board of Regent shall be required as to all Implementing Agreements, and (ii) that the Implementing Agreements may include additional terms, covenants, and conditions that may require independent discretionary approval of the Board of Regents or that may be required pursuant to existing financial, legal and contractual obligations of NSHE and/or UNLV (in each instance, a "**BOR Discretionary Consent Item**"). Accordingly, AVS and EFDS expressly acknowledge and agree that the Board of Regents shall have broad discretion to approve or disapprove all of the Implementing Agreements and all of the BOR Discretionary Consent Items, approving or disapproving each of the same in the exercise of its judgment.

13. Non-binding MOU. **THIS IS A MEMORANDUM OF UNDERSTANDING ONLY AND IS NOT A BINDING OR ENFORCEABLE CONTRACT. THE PROVISIONS OF THIS MOU, AND ANY REPRESENTATIONS OR AGREEMENTS HEREIN, DO NOT CONSTITUTE, AND SHALL NOT GIVE RISE TO, ANY LEGALLY BINDING OBLIGATION ON THE PART OF ANY PARTY. THE PARTIES AGREE THIS MOU ESTABLISHES THE FRAMEWORK TO CONTINUE TO REVIEW THE HOUSING DEVELOPMENT PROGRAM AS OUTLINED IN THIS MOU AND TO CONTINUE TO NEGOTIATE THE IMPLEMENTING AGREEMENTS, ALL SUBJECT TO BOARD OF REGENTS' APPROVAL.**

14. Schedule. The Parties agree to work in good faith to meet the following schedule it being understood that no Party will allege that any other Party is not acting in good faith if that Party, for any reason, determines to delay the proposed schedule or determines it cannot meet the proposed schedule.

BOR approval of deal structure	July 2013
Completion of Implementing Agreements	August 2013
BOR approval of Implementing Agreements	September 2013
Close Project financing	October 30, 2013
Site acquisition by the Foundation	October 30, 2013
Complete demolition and Site work	February 2014
Complete design & permitting	February 2014
Begin Component A construction	March 2014
Complete Component A construction	July 2015

The Parties acknowledge that the timing and schedule for Component B will depend on market conditions.

15. Predevelopment Costs. In order to meet the Goals and Objectives in Section 1 and the schedule set forth in Section 14, the Parties agree that until such time as the Implementing Agreements are approved by the BOR, EFDS will incur material, third party, out-of-pocket costs in connection with pre-development services associated with the Housing Development Program. Such material, out of-pocket costs could include costs reasonably related to market demand and feasibility studies, lender required appraisals, architect and engineering studies, contractor pricing to develop a

guaranteed maximum price, and underwriter, accounting and legal fees (but shall not include time spent by the principals or employees of EFDS or any of the AVS Parties in performing their obligations under this MOU or the Implementing Agreements, or retention fees paid to third parties that do not ultimately perform work on behalf of EFDS or the AVS Parties related to the Housing Development Program) (collectively, the "**Predevelopment Costs**"). It is anticipated that the Predevelopment Costs will be reimbursed to EFDS through project financing after execution of the Implementing Agreements. Subject to: (i) an appraisal valuing the Real Property at no less than the Purchase Price, UNLV agrees to reimburse EFDS 50% of the documented Predevelopment Costs, subject to UNLV's reasonable approval, not to exceed $250,000, if the BOR fails to approve the Implementing Agreements. If EFDS or any other AVS Party determines not to proceed with the Housing Development Program for any reason (including, but not limited to, inability to obtain financing, market study demonstrating insufficient demand, appraised price is below EFDS purchase price, etc.), EFDS shall assume all Predevelopment Costs. In the event the Parties do not proceed with the Implementing Agreements for any reason, UNLV shall have a continued right to use planning materials prepared by or on behalf of the AVS Parties relating to the Housing Development Program, including, but not limited to, market demand and rate studies and other due diligence materials. EFDS and the other AVS Parties agree that reimbursement of the Predevelopment Costs by UNLV shall be their sole remedy under this MOU should the BOR fail to approve the Implementing Agreements.

16. Miscellaneous.

16.1 No Liability. In no event shall either Party or any of their individual officials, officers employees or agents in any way be liable or personally liable or responsible for any obligation contained in this MOU, whether expressed or implied, nor for any statement, representation or warranty made or in any connection with this MOU.

16.2 Not a Partnership. It is expressly understood that, whether by reason of this MOU or otherwise, none of the Parties is or becomes in any way or for any purpose, or a partner of any of the others in the conduct of its business (or otherwise), or a joint venture with any of the others, or a member of a joint enterprise with the others, or an agent of any of the others.

16.3 Third Party Beneficiary. This MOU is not intended to create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a Party unless otherwise expressly provided herein.

16.4 Governing Law. The laws of the State of Nevada without reference to conflicts of laws principles shall govern the validity, construction, interpretation, and effect of this MOU.

16.5 Marks. AVS and EFDS each acknowledges that it cannot use the name of NSHE or UNLV, or their seals, logos or any other related name in the performance of its services, in its advertising, or in the production of any materials related to this MOU, without the prior written consent of NSHE or UNLV, as applicable.

16.6 Exhibits. All references in this MOU to Exhibits refer to the Exhibits attached to this MOU, all of which are hereby incorporated by reference.

16.7 Term and Termination. This MOU shall effective for one (1) year from the MOU Effective Date, except as may be extended by mutual agreement. Any Party shall have the right to terminate this MOU for any reason or for no reason by providing the other Parties ten (10) days' written notice.

IN WITNESS WHEREOF, the Parties hereby acknowledge the terms and conditions stated above.

BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS RECOMMENDED:

By:________________________________
Gerry J. Bomotti
Vice President for Finance and Business

By:________________________________
Neal J. Smatresk
President, UNLV

APPROVED BY THE BOARD OF REGENTS AT A NOTICED PUBLIC MEETING:

By:________________________________
HON. KEVIN J. PAGE
CHAIRMAN OF THE BOARD OF REGENTS

AVS HOUSING GROUP, LLC
A Nevada limited liability company

By: Vista Management, Inc.
Its: Member

By:________________________________
Michael A. Saltman, President

By: ANC Midtown I, LLC
Its: Member

By: American Nevada Company, LLC
Its: Member

By:________________________________
Phillip N. Ralston, President

EDUCATIONAL FACILITIES DEVELOPMENT SERVICES NV I, LLC
A Nevada limited liability company

By: Strategic Business Concepts, L.L.C.
Its: Member

By:________________________________
Gary L. Aller, Member

EXHIBIT A
Map of the Site

EXHIBIT B

General Terms of Proposed Marketing & License Agreement(s)

In an effort to best integrate Midtown Park into the UNLV campus, the Foundation would engage UNLV to market, lease and collect revenues. UNLV will be compensated for providing these services in the amount of 3.5% of the annual gross revenues collected from Midtown Park. EFDS acknowledges that UNLV currently contracts with AVS to perform these services for the existing on-campus housing, however, given that the UNLV/AVS housing contract is of a shorter duration than the proposed MLA, this agreement must be entered into solely with UNLV. EFDS agrees that the functions contemplated by the MLA may be assigned, whole or in part, to a third party by UNLV.

<u>Marketing</u>
UNLV to market and promote Midtown Park in the same manner as the existing on-campus housing. This includes listing Midtown Park on UNLV's website as a housing option and including Midtown Park in any printed material or collateral. UNLV will prepare an annual marketing plan for Midtown Park which will be shared with EFDS. Rental rates will be set annually by EFDS.

<u>Leasing</u>
UNLV will accept and process applications for housing at Midtown Park in the same manner as for existing on-campus housing, including the collection of customary fees. UNLV will assign students to room accommodations and use its lease/contract form (or an acceptable derivative of that form) as the leasing document. Lease administration will be conducted by UNLV in the same manner as other on-campus housing projects.

<u>Collections</u>
UNLV to collect rental payments from students in the same manner as other on-campus housing projects. UNLV will be responsible for any "bad debt" i.e. non-payment of rental charges or fees by a student. Revenues from students who are released from their rental contract via UNLV's customary process will only be payable to EFDS (or the Foundation or its subsidiary or affiliate) on any revenues retained by UNLV.

<u>Compensation to UNLV</u>
UNLV to retain 3.5% of the annual gross rents, including all applicable fees.

<u>Payment of Revenues to EFDS</u>
Payment of revenues from UNLV to EFDS (or the Foundation or its subsidiary or affiliate) shall occur semester-by-semester and include adjustments for no-shows and contract releases. Summer rentals and conference rentals will also be covered by this MLA.

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