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Lincoln County - NV
Leslie Boucher - Recorder

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When Recorded Return to:**

Triple Aught Foundation
HC 61 Box 33
Hiko, NV 89017

I undersigned hereby affirms that this document submitted for recording does not contain the personal information of any person or persons per NRS 239B.030.

Wendy Rudder,
Employee of Triple Aught Foundation

EASEMENT FOR CONSERVATION



EASEMENT FOR CONSERVATION
“City”, a Monumental Life Work of Artist Michael Heizer
Triple Aught Property, Garden Valley - Lincoln County, NV

THIS EASEMENT FOR CONSERVATION (the “Easement”) is granted effective as of this 6th day of May, 2015, by **TRIPLE AUGHT FOUNDATION**, a Nevada non-profit corporation, the address of which is HC 61 Box 33, Hiko, NV 89017 (the “Grantor”) to and for the benefit of **MUSEUM ASSOCIATES**, a California non-profit corporation, d/b/a Los Angeles County Museum of Art (“LACMA”), the address of which is 5905 Wilshire Boulevard, Los Angeles, CA 90036 (the “Grantee” or “LACMA”) for the purpose of forever preserving the cultural, architectural, historical, natural, scenic, open space character of the subject property, while allowing certain portions of the subject property to be maintained in agricultural uses. The Grantor and the Grantee are referred to herein individually as a “Party” and collectively as the “Parties”.

The following Exhibits are attached hereto and made a part of this Easement for Conservation:

- Exhibit A - Description of Property, including Cultural Area and Open Area
- Exhibit B - Map of Property, including Cultural Area and Open Area
- Exhibit C - Acknowledgement of Baseline Documentation Report
- Exhibit D - Notes of the Artist regarding a proposed Visitor Management Plan

RECITALS:

- A) **The Property.** Grantor is the sole owner in fee simple of certain real property located in Lincoln County Nevada (the “Property”) comprised of a “Cultural Area” and an “Open Area,” more particularly described in **Exhibit A** and depicted in **Exhibit B**, attached hereto and incorporated herein by this reference. “City,” a monumental earth art sculpture more fully described below, is located within the Cultural Area.
- B) **Conservation Values.** The Property possesses cultural, architectural, historical, natural, scenic, open space and agricultural conservation values, as described in NRS §111.410 (collectively, the “Conservation Values”) of great importance to the people of Lincoln County, the people of the state of Nevada, and the people of the United States of America, which are worthy of protection. The Conservation Values are further detailed in the “Baseline Documentation Report” (“the Baseline Report”) dated April 28, 2015 and described herein. The scope of parcels included in Baseline Report is broader than the parcels included in this Easement.
- C) **City.** The Parties seek to forever protect from development the land on which is located the monumental life work of American artist Michael Heizer (the “Artist”), known as “City,” and adjacent lands owned by Grantor that are within City’s proximity and viewscape. The Artist, whose work exemplifies a uniquely American movement to integrate art with earthworks, began this ambitious undertaking in 1972. City, which is approximately the size of the National Mall in Washington, D.C., and ancient Mesoamerican cities such as Téotihuacan and Chichén Itzá, is a massive sculpture that is formed in and from the land. Working in sand, rock and concrete, the Artist has created



an environment within the remote desert of Garden Valley, Nevada, that suggests the remains of a modern civilization. City stands as a testament to individual perseverance and the independent pioneer spirit of the West. By its very nature, City cannot be exhibited in a gallery or a museum or even bought or sold separately from the Property. It is the Artist's vision that City will one day be experienced by visitors who are able to explore its interior while City itself remains surrounded by an undeveloped natural landscape. The Parties acknowledge that City, as described and depicted in the Baseline Report, is substantially complete and that work remaining to accomplish its completion relates primarily to: removal of a concrete batch plant in the center of the sculpture that has been used to make the material for the construction of City; additional water engineering to protect City from flash floods; curb work around the sculpture; and production of gravel that is used in the sculpture and for needed upkeep, but may include additional visual elements to complete the composition.

- D) Cultural Area. City is located within the Cultural Area of the Property described on Exhibit A and identified on the map attached as Exhibit B. The Cultural Area of the Property has cultural, architectural, historical, natural, scenic, and open space conservation values (the "**Cultural Area Conservation Values**"), more fully described as follows and more fully detailed in the Baseline Report:
- 1) City is composed of abstract sculptural, architecturally sized forms made of compacted earth, gravel, concrete, and volcanic cinder that are reminiscent in shape, scale, and ambition of ancient ceremonial cities, while also reflecting modern building technologies.
 - 2) The solitude of City is an important component of how it is intended to exist and be experienced. The Artist chose the site for City based upon its remote location, profound silence, and naturally available materials. City is inextricably linked to the surrounding landscape.
 - 3) City exemplifies an American art movement that the Artist invented – referred to as "Earth art" or "land art," which changed the course of modern art history. Working largely outside the confines of gallery and the museum settings, the Artist's work, including City, has redefined American sculpture in terms of scale, mass, gesture, and process, creating a three-dimensional form in which a large-scale sculpture is formed in and from the land. City is a sculpture that creates an atmosphere of awe by its geometric and abstract forms. The preservation of these forms is essential to the work.
 - 4) The Cultural Area is home to a number of species deemed "sensitive," "at-risk" or "protected" by state and/or federal agencies.
- E) Open Area. The areas of the Property outside of the Cultural Area are referred to as the "**Open Area**," which is described on Exhibit A and identified on the map attached as Exhibit B. The Open Area has natural, scenic, open space, cultural and agricultural conservation values ("**Open Area Conservation Values**"), more fully described as follows and more fully detailed in the Baseline Report:
- 1) The Open Area is unspoiled, undeveloped and unlit. Preservation of the Open Area in this natural, scenic and open condition preserves the viewscape and solitude within which City was conceived and created, and within which context



it is intended to exist and to be experienced.

- 2) The natural, scenic and open condition of the Open Area is an integral part of the vision of the Artist for City, and of the artistic, architectural and cultural values of City.
 - 3) The Cultural Area, the Open Area and their surroundings constitute an extraordinary example of the landscape of the American West.
- F) The Parties. Grantor Triple Aught Foundation is a Nevada non-profit corporation and tax-exempt entity. Grantee Museum Associates, d/b/a Los Angeles County Museum of Art is a California non-profit corporation and is a qualified "holder," as defined in NRS §111.410, of an Easement for Conservation. Among other powers and purposes, LACMA encourages activities and promotes education in the field of art, including preservation of cultural aspects of real property that comprises or contains works of art such as City and its surrounding landscape. Grantor does not intend to claim any tax benefit from its granting of this Easement, and this Easement does not anticipate that Grantor will seek any tax benefit.

EASEMENT FOR CONSERVATION:

NOW, THEREFORE, for the reasons given, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, the parties agree as follows:

- 1. Grant. Grantor hereby voluntarily grants and conveys to the Grantee, its successors and assigns, as a donation, a perpetual Easement for Conservation, consisting of the rights and restrictions enumerated herein, over, across and under the Property (the "**Easement**") for the purposes described herein.
- 2. Purpose. The purposes of this Easement are as follows:
 - 2.1. Cultural Area. To protect the Cultural Area, including in particular City, from risks of damage caused by development and/or uses of the Property that might otherwise be permitted by law but that are inconsistent with the Cultural Area Conservation Values.
 - 2.2. Open Area. To assure that the Open Area will forever remain predominantly in a combination of its agricultural, scenic, and open space condition, and to prevent any use of the Property that will diminish, impair or interfere with the Open Area and Cultural Area Conservation Values.
 - 2.3. Agricultural Uses. To permit the continuation of agricultural operations in and on the Open Area, to the extent desired by the Grantor, without unmanageable restrictions, but subject to the restrictions described herein.
 - 2.4. Public Access. To allow for public access to City in a manner that protects City and the Conservation Values of the Property, on the terms and conditions described herein.
- 3. Permitted Uses of Property. The following uses and practices by Grantor are consistent with this Easement. Unless subject to specified conditions or to the requirement of, and procedures for, prior approval by the Grantee as described herein, these consistent uses



shall not be precluded, prevented, or limited by this Easement. Any action taken by Grantor pursuant to this Section 3 shall be at Grantor's sole cost and expense.

3.1. Cultural Area.

- 3.1.1. Completion. The Artist, together with the Artist's assistants working under the Artist's direction, may undertake work on, revise, restore, expand and complete City within the Cultural Area as the Artist may see fit until the Artist deems City to be complete ("**Completion**"). The Parties contemplate that Completion will occur on or before May 1, 2020. At the time of Completion, Grantor will provide Grantee with a certificate from the Artist that City is complete. In the event that the Artist – due to physical or mental incapacity or death – is unable to deem City complete and/or provide the certificate required in this Section 3.1.1, Grantor warrants that the Artist has designated Grantor as the Artist's representative to make the necessary determination, in Grantor's discretion, of Completion and provide Grantee with certification thereof.
- 3.1.2. City Uses. Grantor may perform continued maintenance and repair of City to ensure: (a) City's continued existence consistent with the artistic vision of the Artist and (b) the opportunity for the public to visit and view City according to the terms and conditions described herein (the "**City Uses**"). The City Uses include the right of the Grantor, within the Cultural Area and consistent with the artistic vision of the Artist for City, to make topographical changes and to utilize soil, sand, gravel and minerals from the Cultural Area, to cover portions of the Cultural Area with impervious surfaces, and to plant or remove vegetation, all for the City Uses.
- 3.1.3. Upkeep. After Completion, Grantor shall, maintain, repair and restore City at Grantor's expense so as to preserve the Cultural Area Conservation Values, including City. Should Grantor be unable or unwilling to maintain City in a manner that protects the Conservation Values of the Property and to allow public visitation, Grantee may perform any maintenance, repair or restoration that Grantee, in its sole discretion, deems necessary to protect the Conservation Values of the Property, but is not required to do so.
- 3.1.4. Roads. Grantor may construct roads within the Cultural Area as necessary for Completion of City. After Completion of City, such roads may be maintained or reclaimed by Grantor in a manner consistent with the artistic vision of the Artist for City. Grantor may construct, maintain, renovate, repair, improve, or replace roads within the Cultural Area as necessary to allow public access to City under an approved Visitor Management Plan (described herein); provided, however, that the construction, renovation, improvement, or replacement of roads for such purpose is subject to the prior written approval of the Grantee. Motorized vehicles used for the City Uses and the transportation of permitted visitors to City are allowed within the Cultural Area.



- 3.1.5. Structures and amenities. With the prior written approval of the Grantee, the Grantor may construct other amenities, including trailers, mobile homes, structures, buildings, trails, walkways, interpretative signs and other improvements within the Cultural Area as may be reasonably necessary to accommodate public access. Should Grantor be unable or unwilling to construct such amenities, Grantee may do so if Grantee, in its sole discretion, deems such amenities necessary to accommodate public access pursuant to the Visitor Management Plan.
- 3.2. Open Area. The Open Area may be used for the uses described below:
- 3.2.1. Agricultural Structures. Within the Open Area, the Grantor may maintain, repair, remodel and replace existing structures (including, without limitation the Ohdeehdah Dam located in the eastern-most portion of the Open Area) and construct new minor agricultural structures, such as loafing sheds, corrals, water lines, water tanks and other similar structures, provided the new structures, improvements and buildings are intended for and are used solely for agricultural purposes that are consistent with the purposes of this Easement. Minor agricultural structures that exceed 500 square feet in size require the prior written approval of the Grantee, which Grantee may withhold in its reasonable discretion. Grantor shall notify the Grantee prior to undertaking any construction of new agricultural structures or reconstruction of existing structures.
- 3.2.2. Agricultural Practices. It is the intention of the Parties to preserve the ability of the Open Area of Property to be agriculturally productive while preserving the open space character, scenic qualities and other Open Area Conservation Values. To that end, the Grantor may engage in normal and customary practices required for agricultural production in the Open Area including the use of pesticides, herbicides, agricultural sprays, and fertilizers considered appropriate for raising crops, provided such use is in accordance with applicable laws and regulations and the manufacturer's specifications and limitations for such use.
- 3.2.3. Grazing. Grantor may permit grazing of livestock in the Open Area, provided that at all times Grantor shall utilize good grazing and range management practices that prevent pasture deterioration and over-grazing and that protect the Conservation Values of the Property. Livestock is limited to cattle and horses or such other livestock as the Grantee may approve in writing.
- 3.2.4. Fencing. All fencing on the Open Area (except within the agriculturally productive areas of the Open Area that Grantor determines require fencing to protect livestock, crops and orchards from damage due to wildlife), including all exterior boundary fencing, shall be compatible with the movement of wildlife across the Open Area.
- 3.2.5. Roads. The Grantor may construct, maintain, renovate, repair, improve, or replace roads within the Open Area as necessary for agricultural purposes or to allow public access to City pursuant to the Visitor



Management Plan described herein; provided, however, that the construction, renovation, improvement, or replacement of roads is subject to the prior written approval of the Grantee.

3.2.6. Paving; Driveway; Utilities. No portion of the Open Area, other than roads permitted under paragraph 3.2.5 above, shall be paved or otherwise covered with concrete, asphalt, or other paving materials. Grantor may install, construct and maintain utilities (including above-ground utilities) for the benefit of the Property, but for no other properties.

4. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement, or that may interfere with the Conservation Values of the Property, is prohibited. In addition to the above statement, the following uses and activities are restricted or expressly prohibited:

4.1. Structures, Buildings or Improvements. The construction, placement or replacement of any structures, buildings or improvements on the Property including trailers, mobile homes or other temporary living quarters, is prohibited except as otherwise provided in the Permitted Uses of Property paragraph 3, above.

4.2. Subdivision. The Property shall be conveyed only in its entirety. The partition, division or subdivision of the Property, whether by physical or legal process, including but not limited to condominium interests, time-sharing, and the partition of undivided interests or subdivision by any judicial or non-judicial foreclosure, is prohibited. This does not preclude sale of undivided interests in the Property; however, all co-owners are subject to the prohibition on subdivision in this Easement and the other terms and conditions of this Easement.

4.3. Commercial and Industrial Activities. The Property may not be used for industrial activities, or for commercial activities other than those uses related to farming and agriculture, or those related to the permitted activities within the Cultural Area.

4.4. Boundary Line Adjustments. No boundary line adjustment shall be allowed that results in any increased density of development on or off the Property, nor shall this Property be used for calculating density of development or permitted uses on any other property or for the purpose of increasing the density of development or uses that might be permitted on any other property.

4.5. Roads. No roads shall be constructed, maintained, repaired, or improved except as permitted in paragraphs 3.1.4, 3.2.5 and 3.2.6.

4.6. Paving; Driveway. Except for the City Uses or pursuant to the Visitor Management Plan (described herein), and except as permitted in paragraph 3.2.6, no portion of the Property, shall be paved or otherwise covered with concrete, asphalt, or other paving materials.

4.7. Signs and Billboards. Grantor and Grantee shall jointly agree upon signage concerning City pursuant to the Visitor Management Plan (described herein). Such signage may include informational, interpretive and directional signs. No commercial signs, billboards, awnings, or advertisements shall be displayed or



placed on the Property. No signs shall diminish, impair or interfere with the Conservation Values of the Property.

- 4.8. Mining, Waste Dumping or Other Prohibited Uses. The mining or extraction of soil, sand, gravel, rock, stone, decorative stone, oil, natural gas, fuel, or any other mineral substance, of any kind or description, is prohibited on the Property, except in conjunction with the City Uses in the Cultural Area as provided in paragraph 3.1.2.
- 4.9. Topographical Changes. Until Completion, topographical changes are permitted within the Cultural Area, consistent with the vision of the Artist for Completion of City. After Completion, any topographic changes within the Cultural Area must be approved by both Parties, and either Party may approve or disapprove of such topographic changes in its discretion. In the Open Area, altering the topography or other natural features of the Open Area by digging, excavating, plowing, disking, cutting, filling, removing or otherwise destroying the vegetative cover is prohibited, unless approved by Grantee.
- 4.10. Trash. The dumping or uncontained accumulation of trash or refuse on the Property is prohibited.
- 4.11. Hazardous Materials. The storage, dumping or other disposal of "**Hazardous or Toxic Materials**" or of non-compostable refuse on the Property is prohibited. For the purpose of this Easement "Hazardous or Toxic Materials" shall be taken in its broadest legal context and shall include any petroleum products as defined in ASTM Standard E 1527-05 and any hazardous or toxic substance, material or waste that is regulated under any federal, state or local law. Notwithstanding anything in this Easement to the contrary, the prohibitions in this Easement do not make or allow the Grantee to become an owner or operator of the Property, nor does it permit the Grantee to exercise physical or managerial control over the day-to-day operations of the Grantor or control any use of the Property by the Grantor that may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, that the Grantee may, but shall not be obligated to, bring an action to protect the Conservation Values of the Property, as described in this Easement. The prohibitions in this Easement do not impose liability on the Grantee for Hazardous or Toxic Materials, nor shall the Grantee be construed as having liability as a "responsible party" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, or similar federal or state statutes. Nothing in this paragraph shall prohibit the use of chemicals and products in conjunction with the Permitted Uses so long as such use is in accordance with applicable laws and manufacturer's instructions.
- 4.12. Hunting. The renting or leasing of, or sale of access to the Property for hunting purposes, whether or not as part of a commercial outfitting or guiding business is prohibited. Operating a commercial hunting operation or charging fees for hunting on the Property is prohibited.
- 4.13. Motorized Vehicles. The use of motorized vehicles off of roads, except as necessary for the City Uses and agricultural and property maintenance purposes to the extent included in the Permitted Uses, is prohibited.



- 4.14. Timber Harvesting. Trees may be cut to control insects and disease, to control invasive or non-native species, and to prevent personal injury and property damage (including mitigation of fire risks and fire suppression). Dead trees may also be cut for firewood and other uses on the Property. Commercial timber harvesting on the Property is prohibited.
5. Water Rights. No water rights are encumbered by this Easement.
6. Rights to the Grantee. To accomplish the purpose of this Easement the following rights are granted to the Grantee:
 - 6.1. To preserve and protect the Conservation Values of the Property, including, in particular, preservation of City and the artistic vision of the Artist for City, and the natural, scenic and open condition of the Open Area as an integral part of the vision of the Artist for City, and of the artistic, architectural and cultural values of City.
 - 6.2. To enter upon the Property at reasonable times and normally upon 48 hours' notice to Grantor, in order to monitor compliance with and otherwise enforce the terms of this Easement. The Grantee shall also have the right of immediate entry if, in its reasonable judgment, such entry is necessary to prevent damage to or the destruction of the Conservation Values. The Grantee may utilize vehicles and other reasonable modes of transportation for access purposes. The access routes to the Property shall be designated by the Grantor so as to minimize disturbance to the Property.
 - 6.3. To require Grantor to perform upkeep, maintenance, restoration, rehabilitation, or improvement work on the Property deemed by Grantee to be necessary to protect or restore the Conservation Values of the Property safeguarded by this Easement, at Grantor's own cost; or, in the discretion of Grantee, if Grantor fails to do so, to perform upkeep, maintenance, restoration, rehabilitation, or improvement work on the Property deemed by Grantee to be necessary to protect or restore the Conservation Values of the Property safeguarded by this Easement.
 - 6.4. To prevent any activity on or use of the Property that is inconsistent with the purposes of this Easement and preservation of City and the artistic vision of the Artist for City, or which may be reasonably expected to have a material adverse impact on the Conservation Values of the Property, and to require the Grantor to restore such areas or features of the Property that are materially damaged by any inconsistent activity or use.
 - 6.5. To place and maintain on the Property signs concerning the surrounding landscape, and the existence and terms of this Easement. The size, location, design and content of such signs shall be determined through mutual agreement of the Grantor and the Grantee.
7. Rights Retained by Grantor. Grantor reserves to Grantor and to Grantor's successors and assigns all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited or restricted herein and are consistent with the purpose of this Easement.



- 8. Responsibilities of the Grantor and the Grantee Not Affected. Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:
 - 8.1. Taxes. The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property, if any, including any taxes imposed upon, or incurred as a result of, this Easement.
 - 8.2. Upkeep and Maintenance. The Grantor shall continue to be solely responsible for the upkeep, maintenance and preservation of City (in a manner consistent with the artistic vision of the Artist) and the Property and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property. The Grantee shall have no obligation for the upkeep, maintenance or preservation of the Property, including City, based upon this Easement but has the right to perform such upkeep, maintenance, and preservation if Grantor fails to do so.
 - 8.3. Insurance. The Grantor shall at all times maintain insurance coverage for comprehensive general liability, automobile and vehicle, property loss, and workman's compensation in amounts that are reasonable and adequate in light of the anticipated uses of the Property. The amounts and other terms of such insurance shall be subject to Grantee's approval, not to be unreasonably withheld. Grantor shall name the Grantee and the Indemnified Parties, as defined in Paragraph 16, below, as additional insureds on such policies, and such policies shall waive subrogation against Grantee and the Indemnified Parties. Grantor shall provide certificates of such insurance to the Grantee prior to the recording of this Easement and thereafter, annually and at other times upon the reasonable request of the Grantee.

- 9. Notification of Threat; Enforcement.
 - 9.1. Baseline Documentation Report. The Parties each shall maintain a signed copy of the Baseline Report. The Parties acknowledge the Baseline Report to be complete and accurate as of the date of this Easement, and a copy of the Parties' acknowledgement is attached hereto and incorporated herein as **Exhibit C**. The Baseline Report will be used by the Grantee to assure that any future changes in the use of the Property are consistent with the terms of this Easement. However, Grantee is not precluded from the use of other evidence to establish the condition of the Property as of the date of this Easement if there is a controversy over use of the Property or the terms of this Easement.
 - 9.2. Notice of Threat. Grantor and Grantee shall each promptly notify the other of any event or condition that could reasonably be likely to result in a violation of this Easement, or any threat to the Conservation Values of the Property, including, without limitation, any threat to Completion and preservation of City.
 - 9.3. Opportunity to Cure. Except when Grantee determines in its sole discretion that an ongoing or imminent violation exists that could irreversibly diminish or impair the Conservation Values of the Property, in which case Grantee may seek injunctive relief to stop the violation, Grantee shall give Grantor written notice of



the violation and sixty (60) days within which to correct the violation, before filing any legal action.

- 9.4. Mediation. During the 60-day cure period, if requested by either party, the parties shall attempt to resolve any dispute, claim or controversy that arises out of this Easement through mediation with a trained mediator. The Parties shall share equally the costs and expenses of the mediation (which shall not include the expenses incurred by each Party for its own legal representation in connection with the mediation). Should the Parties be unable to resolve their dispute through mediation or within the 60-day cure period, Grantee may seek all legal and equitable relief allowed by law.
- 9.5. Applicable law; Venue. This Easement shall be construed under the law of the State of Nevada, unless inconsistent with applicable federal law. Any suit over the terms of this Easement shall be brought in a court located within the State of Nevada that has jurisdiction over the subject matter and over the Parties.
- 9.6. Fees and costs. In any action by Grantee, in good faith, to enforce this Easement, Grantee shall be entitled to recover all its expenses incurred in connection with such action, including but not limited to all attorneys' fees.
- 9.7. No waiver. Enforcement of the terms of this Easement shall be at the sole discretion of the Grantee. Any failure by either party to discover a violation or forbearance by the other party, or to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor, shall not be deemed or construed to be a waiver of such term of any subsequent breach of the same, or any other term of this Easement, or of any such party's rights under this Easement. No delay or omission by either party in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver and Grantor hereby waives the defenses of estoppel, laches or waiver.

10. Public Access. No general right of access by the public to any portion of the Property is conveyed by this Easement. However, Grantor shall allow public access to City no later than (a) Completion or (b) May 1, 2020, whichever is earlier, in a manner that is substantially consistent with the parameters set forth in the Artist's notes attached hereto and incorporated herein as Exhibit D.

11. Visitor Management Plan. Grantor shall prepare, in consultation with Grantee, a Visitor Management Plan ("**Visitor Management Plan**") prior to such earlier date described in paragraph 10, and submit it to Grantee for approval or disapproval, in Grantee's reasonable discretion. The Visitor Management Plan shall be substantially consistent with the parameters set forth in the Artist's notes attached hereto and incorporated herein as **Exhibit D**. Upon approval by Grantee, the Visitor Management Plan shall guide public access. The Visitor Management Plan (whether prepared by Grantor or Grantee) shall provide for public visitation during appropriate seasons, on a minimum number of days per week during such seasons. The Parties anticipate that such visitation will occur in small pre-scheduled docent-led tours. Should Grantor not complete and submit for Grantee approval a Visitor Management Plan prior to such earlier date described in paragraph 10, the Grantee may provide public access according to a visitor management plan that Grantee may develop in consultation with Grantor, provided that Grantee's



visitor management plan is substantially consistent with the parameters set forth in **Exhibit D**, and such visitor management plan shall have the same effect as a Visitor Management Plan developed by Grantor and approved by Grantee. The Visitor Management Plan may provide for the restriction of public access from time to time, whether prior to or after Completion by Grantor, with Grantee's prior approval, to ensure the safety of visitors and to protect, maintain, repair, and preserve City and the Conservation Values of the Property based upon, without limitation, criteria such as the following: number of visitors at any one time; times, dates and periods or seasons of operation; maintenance, repair and restoration; continued work toward Completion; and administrative, management and other purposes as are described in the Visitor Management Plan; or based upon such other limitations as are deemed necessary or prudent to complete, protect, maintain, repair and preserve City, as agreed upon by the Parties. Any failure to prepare or to obtain approval of the Visitor Management Plan does not affect the obligation under paragraph 10 to provide public access.

12. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury or change to the Property resulting from causes beyond Grantor's control, including, but not limited to, fire, flood, storm, and natural earth movement, acts of trespassers or vandals, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such natural events. Grantor understands that nothing in this Easement relieves the Grantor of any obligation or restriction on the use of the Property imposed by law.
13. Transfer of Easement. This Easement is transferable by the Grantee, but Grantee may assign its rights and obligations under this Easement only to an organization or entity that is approved by the Grantor (which approval shall not be unreasonably withheld) and which is a qualified holder of an Easement for Conservation under applicable law.
14. Transfer of Property; Grantee's Right to Purchase. If Grantor desires to sell or transfer the Property or any interest in it, Grantor shall notify Grantee in writing and Grantee shall have the right, for a period of two years after receipt of such notice, to close on the acquisition of the Property (or such interest as Grantor desires to sell or transfer) at a price determined to be the fair market value in accordance with the Uniform Appraisal Standards for Land Acquisitions. If Grantee elects not to exercise such right during such two-year period, or more than two years after such notice the Property itself, or any interest in it, is proposed to be transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing at least sixty (60) days prior to the transfer of the Property, and Grantee shall have the right to approve such transferee, which approval shall not be unreasonably withheld. The document of conveyance shall expressly refer to this Easement and reference its recording information. Upon any transfer of the Property, or any portion thereof, Grantor shall have no further liability or obligations under this Easement with respect to the portion of the Property that is transferred, except to the extent such liability arises from acts or omissions occurring prior to the date of transfer.
15. Amendment of Easement. This Easement may be amended only with the written consent of the Grantee and Grantor by a written instrument duly executed and recorded in the real property records of Lincoln County, Nevada. Any such instrument shall be consistent with the purposes of this Easement, shall not affect its perpetual duration or its qualification as a Conservation Easement under applicable law, and shall not permit uses inconsistent with the Conservation Values of the Property, including preservation of City.



16. Hold Harmless. Grantor shall hold harmless, indemnify, and defend the Grantee, and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successor and assigns of each of them (collectively, "**Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with (1) injury or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the gross negligence (in which case liability shall be apportioned in accordance with Nevada or federal law, as applicable) or intentional acts or omissions of any of the Indemnified Parties; (2) the obligations of Grantor and the Grantee specified herein and the obligations or the exercise of any rights of the Grantee under the Enforcement paragraph, above; and (3) the presence or release of Hazardous or Toxic Materials on, under or about the Property.
17. Termination of Easement.
- 17.1. Changed Conditions. If a subsequent unexpected change in the conditions surrounding the Property makes impossible the continued use of the Property or any portion thereof for conservation purposes, the restrictions contained herein may only be extinguished in whole or in part, by judicial proceeding in a court of competent jurisdiction. If a court with jurisdiction determines that conditions on or around the Property have changed so much that none of the conservation purposes of the easement created by this Easement can continue to be fulfilled, the court, at the joint request of Grantor and Grantee, may terminate this Easement. In granting this Easement, the Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both the Grantor and the Grantee that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement in whole or in part. In addition, the inability of the Grantor, or Grantor's heirs, successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for termination of this Easement in whole or in part.
- 17.2. Condemnation. If condemnation of all or any part of the Property by public or permitted authority terminates the Easement, and the Property is sold or taken for public or permitted use in whole or in part, then Grantor and the Grantee shall act jointly to recover the full fair market value of the affected portion of the Property valued as unencumbered by this Easement and all damages resulting from the condemnation or termination, and the Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award in an amount that is at least equal to the ratio of the value of this Easement to the unrestricted fair market value of the Property as these values are determined as of the date of the taking (the "**Grantee's Proceeds**"). This Easement constitutes a real property interest immediately vested in the Grantee, which the Parties stipulate to have a fair market value in the amount of the Grantee's Proceeds. To the extent permitted by law, the Grantee shall use the Grantee's Proceeds consistently with the conservation purposes of this Easement. All expenses reasonably incurred by the



Grantor and the Grantee in connection with condemnation shall be paid out of the total amount recovered prior to the allocation of such damages award between Grantor and the Grantee, as described in this paragraph. In the event this Easement is held by a governmental entity (“**Holder**”), this Easement shall not be terminated, in whole or in part, without the written approval of such **Holder**.

- 17.3. Reconveyance. Should Grantee, in its sole discretion, determine that ownership of this Easement is no longer practicable, it may reconvey the interest herein conveyed by Grantor, and Grantor agrees to accept such reconveyance. Upon reconveyance, the interest created by this Easement shall merge into the Grantor’s interests, and Grantee’s interest shall terminate.
18. Interpretation. This Easement shall be interpreted so as to resolve any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes and protection of the Conservation Values and preservation of City. Each Party had the opportunity to participate in the drafting of this Easement and to have counsel of their choice review same such that the rule of construction related to interpretation against the drafter does not apply.
19. Perpetual Duration. This Easement shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. A Party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in this Easement or the Property, except that liability for acts or omissions occurring prior to transfer and all warranties, hold harmless and indemnification contained herein shall survive transfer or termination.
20. Approvals. Certain activities herein are allowed only if the permission of the Grantee is first obtained. When approval of the Grantee is required, the Grantor must give notice to the Grantee of the intention to undertake any activity that requires approval but is otherwise permitted herein. The notice shall inform the Grantee of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and any other relevant information and must be deemed sufficient by the Grantee in its discretion for review of the proposed activity to constitute proper notice. The Grantee shall have seventy-five (75) days from the receipt of the notice to review the proposed activity and to notify the Grantor of any objections thereto. Except as provided herein where the Grantee’s approval may be withheld in its discretion, the approval may be withheld only upon a reasonable determination by the Grantee that the action as proposed would be inconsistent with the purpose of this Easement and materially adversely impact the Conservation Values of the Property; the reason(s) for such determination shall be set forth with specificity by the Grantee in such written notice to Grantor. If the Grantee does not approve or disapprove the proposed activity within the time specified above, the proposed activity shall be deemed consistent with the Easement and the Grantee shall have no further right to object to the activity identified by the notice, provided the activity is conducted in accordance with the proposal contained in the notice to the Grantee. The Grantor shall be responsible for all costs of the Grantee associated with the approval, including the Grantee’s attorneys’ fees, unless the Parties agree otherwise.
21. Notices. Any notices required by this Easement shall be in writing and shall be personally delivered or sent by Federal Express or other similar courier service specifying



the earliest available delivery, or by certified mail, return receipt requested, to the Grantor and the Grantee at addresses shown above.

- 22. Grantor's Title Warranty; Access. The Grantor warrants that it has good and sufficient title to City and to the Property, that the Grantee has access to the Property for the purposes described in this Easement, that any mortgages, deeds of trust or monetary liens encumbering the Property are subordinate to the terms of this Easement, and hereby promises to defend the same against all claims from any persons claiming by through or under Grantor. Grantor hereby grants to the Grantee the right to access the Property for the purposes described herein, across any easements, rights of way or routes of access of any kind or description, now owned or later acquired by the Grantor, and to ensure that at all times the Grantee has full right of access to the Property for the purposes described in this Easement. The Parties intend that this Easement encumber the Property, including any and all soil, sand, gravel, oil, natural gas, fuel, rock, stone or any other mineral substance of any type or character on or thereunder, whether any such interest is now owned or is later acquired by the Grantor (subject to Grantee's right to excavate, and utilize soil, sand, gravel and other materials from the Cultural Area for the permitted uses within the Cultural Area).
- 23. Grantor's Environmental Warranty. The Grantor warrants that it has no knowledge of a release or threatened release of Hazardous or Toxic Materials on the Property and promises to defend and indemnify the Indemnified Parties, and any of their respective successors and assigns, against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from breach of this warranty.
- 24. Grantor's Other Warranties. Grantor is duly authorized, properly organized and in good standing, and has taken all necessary actions to execute this Easement and this Easement is enforceable against Grantor in accordance with its terms. Grantor is in substantial compliance with the laws, orders, and regulations of each governmental department, commission, board, or agency having jurisdiction over the Property in those cases where noncompliance would have a material adverse effect on the Property or this Easement.
- 25. No Transfer of Development Rights. Grantor hereby grants to the Grantee all development rights except as specifically reserved herein, for the limited purpose of ensuring that such rights are forever terminated and extinguished, and may not be used by Grantor, the Grantee or any other party, on or transferred off of the Property to any other property adjacent or otherwise. Under no circumstances shall any portion of the Property be used for the purpose of calculating or giving credits that result in additional density of development, beyond what is allowed in this Easement, on or off of the Property. Grantor shall not grant access across the Property to or for the benefit of any other property without the prior written permission of the Grantee, which permission it may withhold in its discretion.
- 26. Acceptance. As attested by the signature of its Director affixed hereto, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Easement.
- 27. Recording. The Grantee shall record this instrument in timely fashion in the official records of Lincoln County, Nevada, and may re-record it at any time as may be required to preserve its rights in this Easement.



28. No Third-Party Beneficiary. This Easement is entered into by and between the Grantor and the Grantee only, and is solely for the benefit of the Grantor and the Grantee, and their respective successors in interest and assigns and does not create the right to enforce any term of this Easement or any other rights or responsibilities in any third-parties. No general right of access by the public to any portion of the Property is conveyed by this Easement.
29. Severability; Enforceability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby. This Easement is intended to be enforceable by the Grantee under any applicable law, including the laws of the United States, NRS § 111.390, *et seq.*, and/or as a covenant, equitable servitude, restriction, easement, appurtenant easement or as otherwise enforceable under law or in equity.
30. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.
31. Joint Obligation. In the event the Property is owned by more than one owner, all such owners shall be jointly and severally liable for the obligations imposed by this Easement upon Grantor.
32. Entire Agreement; Recitals. The Recitals are incorporated into this Easement and are an integral part of this Easement. This instrument sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
33. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
34. Counterparts. This Easement may be executed in counterparts and delivered in counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto the Grantee, its successors and assigns forever.



0147481

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Page: 247

05/07/2015
Page: 17 of 25

IN WITNESS WHEREOF Grantor has executed this Easement for Conservation on this 29th day of April, 2015.

GRANTOR:

TRIPLE AUGHT FOUNDATION, a Nevada non-profit corporation

By: [Signature]

Title: BOARD MEMBER

STATE OF ~~NEVADA~~ Washington

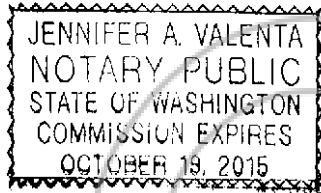
COUNTY OF King) ss.

The foregoing instrument was acknowledged before me this 29th day of April, 2015, by Charles B. Wright III, as Board Member of Triple Aught Foundation, a Nevada non-profit corporation.

WITNESS my hand and official seal.

My commission expires: 10/19/15

(SEAL)



[Signature]
Notary Public



IN WITNESS WHEREOF Grantee has executed this Easement for Conservation on this 29th day of April, 2015.

GRANTEE:

MUSEUM ASSOCIATES, a California non-profit corporation

By: [Signature]
Title: Director and CEO

STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.

The foregoing instrument was acknowledged before me this 29th day of April, 2015, by Michael Govan, as Director and CEO of Museum Associates, a California non-profit corporation, d/b/a the Los Angeles County Museum of Art.

WITNESS my hand and official seal,
My commission expires: 3/16/19
(SEAL)

[Signature]
Notary Public





Exhibit A – Description of Property

Lincoln County, Nevada

The Cultural (City sculpture) Area:

Township 2 North, Range 58 East, M.D.M.

Section 14: W1/2 of Parcel 4 of Parcel Map Showing Land to be Merged and Redivided by Triple Aught Foundation recorded April 27, 2005 in Book C at Page 115 in File No. 124391, of the Official Records of Lincoln County, Nevada [Part of APN #00616115].

Section 15: All [APN #00616102.]

Open Area:

Township 2 North, Range 58 East, M.D.M.

Section 13:

NW1/4 [APN #00616101]; and

N1/2 SE1/4 [APN #00616106]

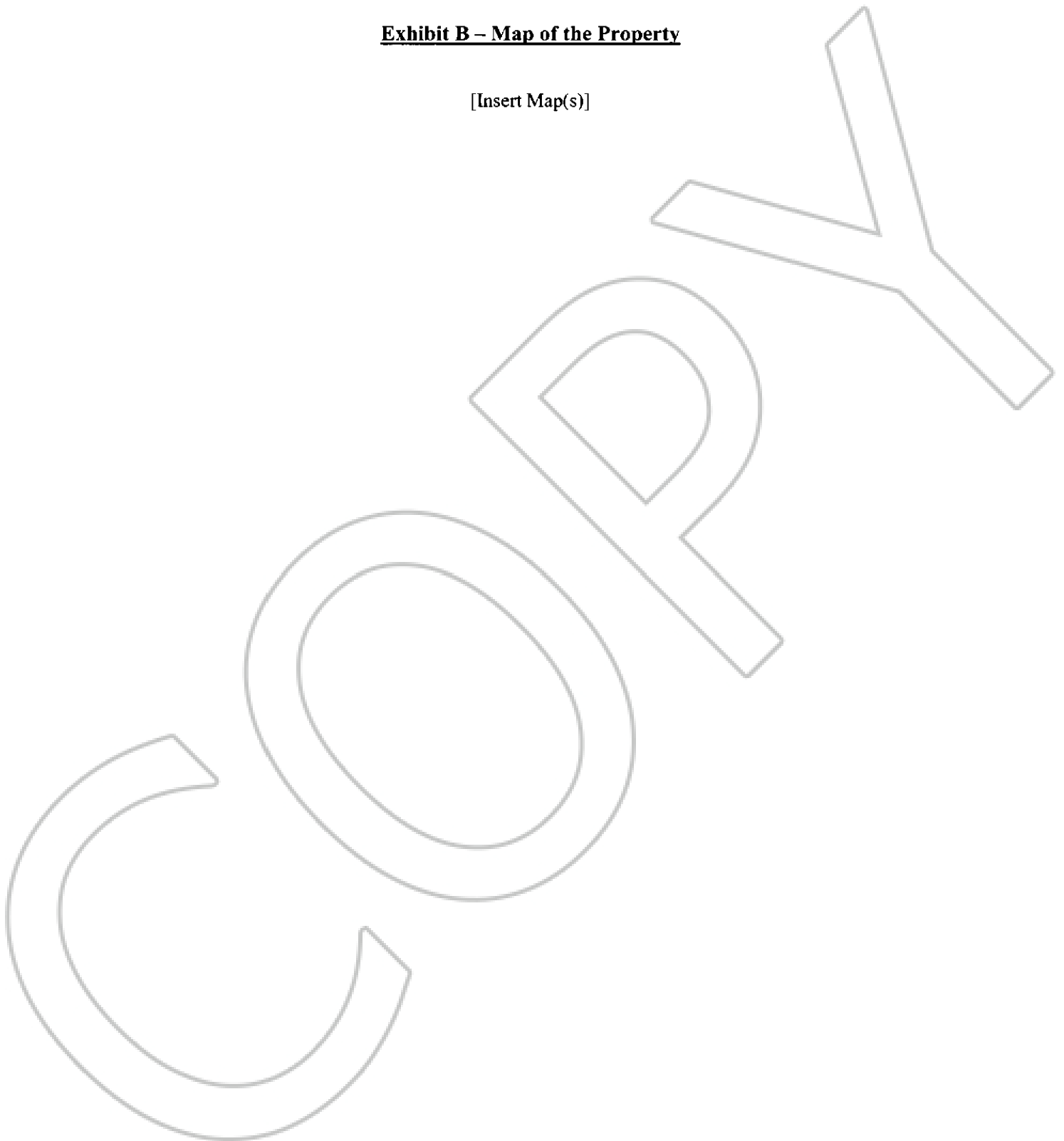
Section 14:

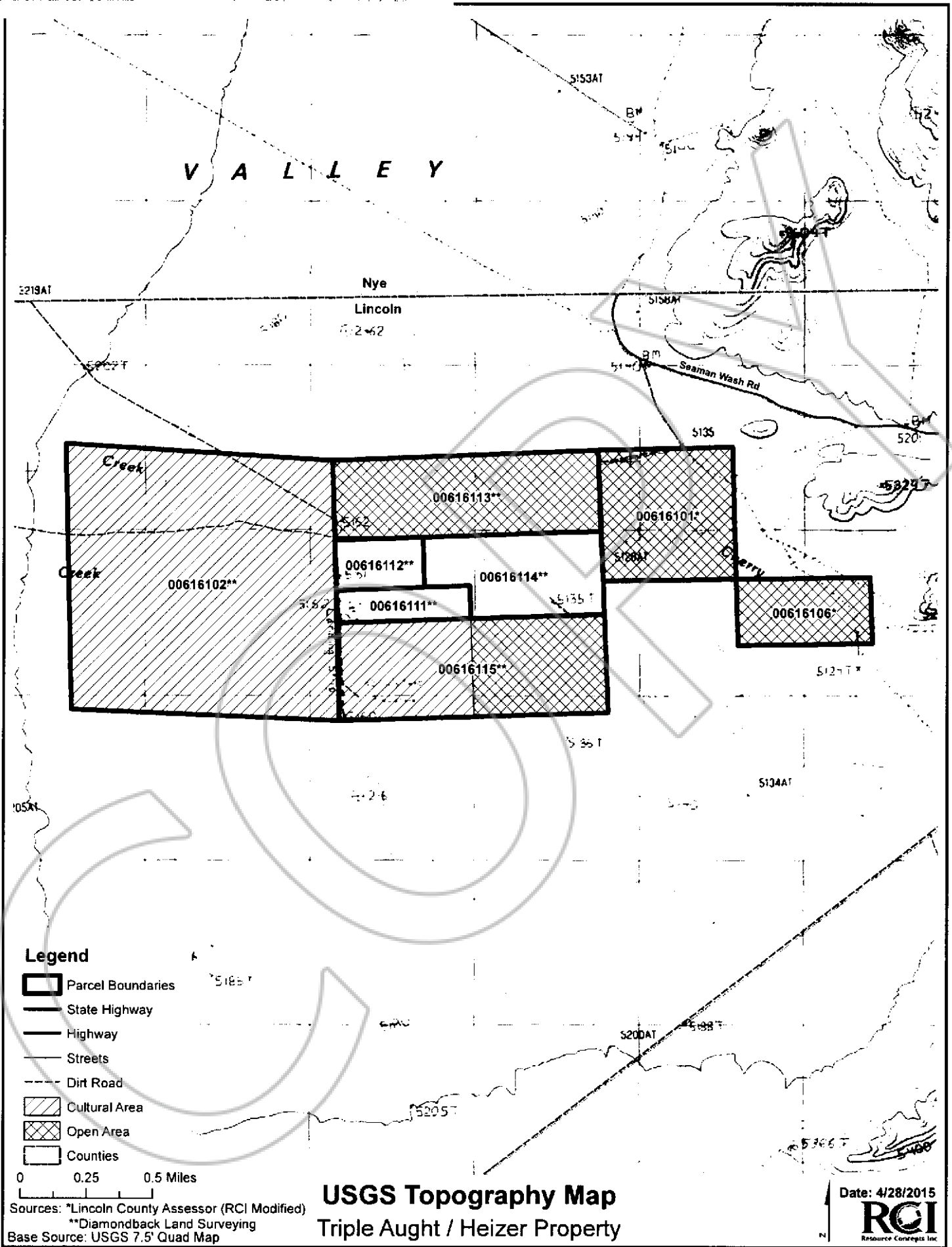
Parcel 2 [APN #00616113] and the E1/2 of Parcel 4 [Part of APN #00616115], of Parcel Map Showing Land to be Merged and Redivided by Triple Aught Foundation recorded April 27, 2005 in Book C at Page 115 in File No. 124391, of the Official Records of Lincoln County, Nevada.



Exhibit B – Map of the Property

[Insert Map(s)]





Sources: *Lincoln County Assessor (RCI Modified)
 **Diamondback Land Surveying
 Base Source: USGS 7.5' Quad Map



Exhibit C – Executed Acknowledgement of Baseline Report

The undersigned parties hereby acknowledge receipt of the Baseline Documentation Report dated April 28, 2015 prepared by Resource Concepts, Inc. The purpose of the Baseline Documentation Report is to document the important conservation values and current conditions of the subject property that are included within the scope of this conservation easement. By signing below, each party acknowledges, to the best of that party's knowledge, that the conditions described in the Baseline Documentation Report are true and accurate as of the date thereof.

<p>Grantor: Triple Aught Foundation, a Nevada non-profit corporation</p> <p>By: <u>Charles Wray</u></p> <p>Its: <u>BOARD MEMBER</u></p> <p>Date: <u>MAY 1 2015</u></p>	<p>Grantee: Museum Associates, a California non-profit corporation, dba Los Angeles County Museum of Art</p> <p>By: _____</p> <p>Its: _____</p> <p>Date: _____</p>
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<p>Grantor: Triple Aught Foundation, a Nevada non-profit corporation</p> <p>By: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>Grantee: Museum Associates, a California non-profit corporation, dba Los Angeles County Museum of Art</p> <p>By:  _____</p> <p>Its: Director and CEO</p> <p>Date: 4/29/15</p>
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Exhibit D – Artist’s Draft Notes on Managed Public Access

The general goal for public access is to provide for the maximum degree of public access possible, consistent with: the intended visitor experience outlined below, the Conservation Values of the artwork, the durability and proper maintenance of the site, the privacy of the Artist during his residency there, and the facilitation of activities required in connection with Completion of City, if public access is commenced prior to Completion.

Managed access and transport:

Currently the roads are without cell service or any other kind of services for approximately 40 miles and therefore it is assumed that we will create a managed access plan whereby visitors to City would make reservations as one would for camping. There would be pickup at an appropriate accessible location and the best sites for this are under consideration. Consideration will be given as well to accommodating visitors who transport themselves to Garden Valley, consistent with the Conservation Values. Four-wheel drive multi-passenger vehicles would bring visitors in and out of the project.

Small group visitation:

Visitation would occur in a limited number of groups, and groups would be small, with possible exceptions for school groups. Visitors need to be managed for their own safety and for the safety of the artwork. There could be educational tours for controlled access whereby visitors would be oriented and given guidance for their visit that should ideally be on foot. In case of the handicapped, the project would be entirely handicap accessible by electric cart or some similar means of transport. At all times, the goal is to provide for an uncrowded visitor experience to allow individuals to interact with and engage City and to ensure the Conservation Values.

Frequency of group visits:

The frequency of group visits will be determined in the Visitor Management Plan. The goal is to allow visitor access consistent with the Artist’s privacy during his residency. During the Artist’s residency visits could take place several days per week during designated visiting seasons. After his residency, the level of visitation may be expanded to meet additional demand, consistent with the Conservation Values. In addition, in the future, a second ranch property owned by Grantor overlooking the project in Garden Valley, may, subject to any necessary renovation, be used to facilitate early morning and evening viewing of City.

Facilities:

Consistent with the terms of the Easement, Airstream trailers may be positioned in an existing central area on the public access road. These could provide temperature-controlled areas with access to bathrooms and drinking water.

Visiting Seasons:

It may be appropriate to restrict public access during periods when climactic or weather conditions, or construction or maintenance activities at City are not conducive to the safety of visitors and the protection of City and the Conservation Values (for example, possible months of visitation may be February –June and September–November). Additional consideration is appropriate, during the Artist’s residency, to manage seasonal access to ensure the Artist’s privacy and the continued use of his private residence and studio for other projects.

**Examples of similar sites:**

- Paria Canyon in Arizona, overnight entry into the canyons is limited to 20 people per day. The canyon is open year-round.
- The Wave, in Vermillion Cliffs National Monument in Arizona is limited to 20 permits per day (10 permits issued online in advance and 10 permits are “walk-in”/same day permits). The Wave is open year-round.
- Westwater Canyon between April 1 and September 30 is limited to 5 permits or 75 people (whichever occurs first), per day.
- Chinati Foundation, in Marfa, Texas. A permanent art installation site that is three hours from either El Paso or Midland. Guided tours of the full site with approximately 12 people four times per day, five days per week.

There would be printed and online educational materials and a substantial publication would document the entirety of the history of the project. These would be tools to enhance the visitor experience and understanding of the artwork. The next several years, as the finishing touches are put on the project, will be used to refine the Visitor Management Plan in consultation with Grantee.

Fees:

Visitors may be expected to pay a fee to Grantor commensurate with the reasonable costs of providing public access. Consideration will be given to mechanisms to provide reduced-fee or free access to people who otherwise may not be able to visit City.