

**CARSON CITY  
REQUEST FOR BOARD ACTION**

**Date Submitted:** August 23, 2011    **Agenda Date Requested:** September 1, 2011  
**Time Requested:** 5 mins

**To:** Mayor and Supervisors

**From:** Public Works Department

**Subject Title:** For Possible Action: To approve and authorize the City Manager to sign an Agreement between Joost Land and Cattle Company, Inc., David Leid and Carson City regarding the purchase and exchange of property for a sum not to exceed \$595,000.00. (Andrew Burnham)

**Staff Summary:** This agreement, through the escrow process, provides for Carson City to purchase 5.939± acres of property as defined as Parcel # 1 from David Leid, then exchanging that property for 29.75± acres of property defined as Parcel #2 owned by the Joost Land and Cattle Company, Inc. The appraised value for the property ultimately being obtained by the City is \$20,000 per acre.

**Type of Action Requested:**                    **(Check one)**  
       Resolution                                     Ordinance  
       Formal Action/Motion                     Other (Informational)

**Does This Action Require A Business Impact Statement:**  Yes     No

**Recommended Board Action:** I move to approve and authorize the City Manager to sign an Agreement between Joost Land and Cattle Company, Inc., David Leid and Carson City regarding purchase and exchange of property for a sum not to exceed \$595,000.00.

**Explanation for Recommended Board Action:** This agreement, through the escrow process, provides for Carson City to purchase 5.939± acres of property as defined as Parcel # 1 from David Leid, then exchanging that property for 29.75± acres of property defined as Parcel #2 owned by the Joost Land and Cattle Company, Inc. (see attached Exhibit A). The appraised value for the property being ultimately obtained by the City is \$20,000 per acre.

This agreement allows Carson City to acquire the necessary property to meet two required objectives. The first is to construct an access road to the CITY's water facilities in Ash Canyon and construct a fifty (50) year restricted use flood control project to mitigate periodic flooding in the area. Secondly, this road will re-route public access to the Ash Canyon recreation area away from the Wellington Crescent Sub-Division via a dedicated road traversing Parcel #2 as further defined in Exhibit 1.

Public Works recommends approval of this agreement.

Joost/Leid/City Agreement, continued;

**Applicable Statute, Code, Policy, Rule or Regulation:** N/A

**Fiscal Impact:** \$595,000.00

**Explanation of Impact:** Upon approval of this agreement there will be a reduction of the water budget in the amount of \$595,000.00.

**Funding Source:** Water Fund

**Alternatives:** Do not approve and direct staff otherwise.


**Prepared by:** Ken Arnold, Environmental Manager

**Reviewed By:**   
(Department Head)


**Date:** 8/23/11

**Concurrences:**   
(City Manager)

**Date:** 8/23/11

  
(District Attorney)

**Date:** 8/23/11

  
(Finance Director)

**Date:** 8/23/11

**Board Action Taken:**

<b>Motion</b> _____	<b>1:</b> _____	<b>Aye/Nay</b>
	<b>2:</b> _____	_____
		_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

LAND PURCHASE AND EXCHANGE AGREEMENT

This Land Purchase and Exchange Agreement ("Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between DAVID M. LEID, a Single Person (Parcel #1 Seller; *collectively referred to as "LEID"*), and CARSON CITY, a Consolidated Municipality (Parcel #1 Buyer / Parcel #1 Grantor / Parcel #2 Grantee; *collectively referred to as "CITY"*), and JOOST LAND AND CATTLE COMPANY, INC., a Nevada Corporation (Parcel #2 Grantor / Parcel #1 Grantee; *collectively referred to as "JOOST"*).

WHEREAS, pursuant to Carson City Charter § 1.010, § 2.140, § 6.010, and NRS 244.275-.276 the CITY may acquire, control, improve and dispose of any real or personal property for the general use of the City, or for flood control;

WHEREAS, LEID as Parcel #1 Seller, is the owner of record title of the Property and desires to sell such Property to the CITY at a price that exceeds the appraised market value, but at an amount that is equal to the appraised market value of JOOST's parcel, to wit: that Parcel #1 is that certain 5.939± acres of real property located at 3475 ASH CANYON ROAD, CARSON CITY, NEVADA (APN 007-101-11) (hereinafter "Parcel #1");

WHEREAS, JOOST desires to acquire by exchange of land with the CITY, without any additional money consideration, Parcel #1 in exchange for JOOST's Parcel #2 immediately after the CITY acquires title to Parcel #1;

WHEREAS, the CITY desires to acquire Parcel #2 by exchange from JOOST, to wit: that certain 29.75± acres of real property located generally NORTHWEST OF THE WEST TERMINUS OF ASH CANYON ROAD AND WEST OF THE WELLINGTON CRESCENT SUBDIVISION, CARSON CITY, NEVADA (APN \_\_\_\_\_) (hereinafter "Parcel #2") to construct an access road to the CITY's water facilities in Ash Canyon and engage in a fifty (50) year restricted use flood control project to mitigate periodic flooding alleged by the Home Owner's Association of the Wellington Crescent Subdivision against the CITY's Parcel #2 water line easement, and after the fifty (50) year restricted use, free unencumbered lawful use by the CITY;

WHEREAS, the 29.75± acre Parcel #2 shall, upon grant to the CITY by JOOST, have a fifty (50) year deed restriction with a reversionary right to JOOST; and with regard to Parcel #2 only, this Agreement shall be merged in part into the resulting Parcel #2 deed and this Agreement shall be recorded with the deed to Parcel #2;

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WHEREAS, LEID, CITY and JOOST intend that the purchase and exchange of real property shall be through two (2) contiguous sequential real estate transaction escrows, to wit:

LAND PURCHASE ESCROW ("First Escrow"), CITY shall pay LEID for Parcel #1 a fixed agreed amount that exceeds the market value of the 5.939± acres, but which amount is equivalent to the market value established on February 15, 2011 by the CITY's contracted and duly appointed appraiser, Johnson-Perkins & Associates, Inc., regarding the CITY's ultimately desired 29.75± acres of JOOST Property parceled out of APN 007-101-51; and

LAND EXCHANGE ESCROW ("Second Escrow"), upon close of the First Escrow, JOOST shall deliver its executed Quitclaim Deed transferring all of its right, title and interest in Parcel #2 to the CITY; and the CITY shall deliver its executed Quitclaim Deed transferring all of its right, title and interest in Parcel #1 to JOOST;

NOW, THEREFORE, in consideration of the respective agreements and conditions set forth below and for valuable consideration, the receipt and sufficiency of which is acknowledged, LEID, CITY and JOOST agree as follows:

1. Description of Property.

- a. **PARCEL #1 SALE (FIRST ESCROW):** LEID (Seller) agrees to sell and convey to CITY (Buyer) and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth in this Agreement, certain Parcel #1 as described herein, real property commonly known as 5.939± acres of real property located generally at 3475 ASH CANYON ROAD, CARSON CITY, NEVADA (APN 007-101-11), consisting of unimproved vacant land, said property being located in Carson City, County of Carson City, Nevada and legally described as: A portion of the Southeast 1/4 of the Southwest 1/4 of Section 12, Township 15 North, Range 19 East, M.D.B.&M, and more particularly described as follows:

Beginning at a point that bears N 0°11' East 443.84 feet from the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of Section 12; running thence N 0°11' East, along the one-sixteenth section line for a distance of 500 feet; thence South 89°49' East at right angles to the one-sixteenth section line for a distance of 517.4 feet; thence South 0°11' West parallel to the one-sixteenth section line for a distance of 500 feet; thence North 89°49' West at right angles to the one-sixteenth section line for a distance of 517.4 feet to the point of beginning,

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together with all of Seller's right, title and interest in and to any rights, licenses, privileges, reversions and easements pertinent to the real property, including, without limitation, all minerals, oils, gas and other hydrocarbon substances on and under the real property as well as all development rights, air rights, water rights, water and water stock relating to the real property and any other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the "Parcel #1").

b. **PARCEL #2 EXCHANGE (SECOND ESCROW):**

- i. Step 1: JOOST ("Grantor") agrees to quitclaim, release and convey in its "AS IS" condition to CITY ("Grantee") any and all right, title and interest in and to Parcel #2 as described herein, and Grantee agrees to exchange real property as set forth below in Step 2, subject to the terms and conditions set forth in this Agreement, a certain Parcel #2 real property commonly known as 29.75± acres of real property located generally NORTHWEST OF THE WEST TERMINUS OF ASH CANYON ROAD AND WEST OF THE WELLINGTON CRESCENT SUBDIVISION, CARSON CITY, NEVADA (APN \_\_\_\_\_), consisting of vacant land nominally improved only with regard to the CITY's and State of Nevada's water line easements, said property being located in Carson City, County of Carson City, Nevada and legally described as: All that certain parcel situate within a portion of the East One-Half (E 1/2) of the Southwest Quarter (SW 1/4) of Section Twelve (12), Township Fifteen (15) North, Range Nineteen (19) East, M.D.M., Carson City, State of Nevada, being more particularly described as follows:

BEGINNING at a point on the East line of the E 1/2 of the SW 1/4 of Section 12, from which the South Quarter corner bears South 00°01'16" West, 788.96 feet; Thence departing said East line, North 87°08'01" West, 150.00 feet; Thence North 63°16'24" West, 551.52 feet; Thence North 89°59'30" West, 665.63 feet to a point on the West line of the E 1/2 of the SW 1/4 of Section 12; Thence along said West line, North 00°00'30" East, 906.04 feet; Thence departing said West line North 89°13'06" East, 1308.46 feet to a point on the abovementioned East line of the E 1/2 of the SW 1/4 of Section 12; Thence along said East line, South 00°01'16" West, 1179.53 feet to the POINT OF BEGINNING and the end of this description. Containing 29.75 acres, more or less,

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together with all of Grantor's right, title and interest in and to any rights, licenses, privileges, reversions and easements pertinent to the real property, including, without limitation, all minerals, oils, gas and other hydrocarbon substances on and under the real property as well as all development rights, air rights, water rights relating to the real property and any other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the "Parcel #2"). Grantor reserves any Ash Canyon Creek surface water rights which may be attached to this Parcel #2.

- ii. Step 2: CITY ("Step 2-Grantor") agrees to quitclaim, release and convey in its "AS IS" condition to JOOST ("Step 2-Grantee") any and all right, title and interest in and to Parcel #1, and Step 2-Grantee agrees to exchange real property as set forth above in Step 1, subject to the terms and conditions set forth in this Agreement, a certain Parcel #1 real property commonly known as 5.939± acres of real property located generally at 3475 ASH CANYON ROAD, CARSON CITY, NEVADA (APN 007-101-11), consisting of unimproved vacant land, said property being located in Carson City, County of Carson City, Nevada and legally described in Section 1.a. above, together with all of Step 2 Grantor's right, title and interest in and to any rights, licenses, privileges, reversions and easements pertinent to the real property, including, without limitation, all minerals, oils, gas and other hydrocarbon substances on and under the real property as well as all development rights, air rights, water rights, water and water stock relating to the real property and any other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the "Parcel #1").

2. **Earnest Money.** Shortly after the execution of this Agreement by LEID, CITY and JOOST, CITY shall deposit into the FIRST ESCROW its Earnest Money Deposit of ONE THOUSAND DOLLARS (\$1,000.00). The Earnest Money will be held by Northern Nevada Title Company ("Title Company") for the benefit of the parties pursuant to the terms of this Agreement. Interest will accrue on the Earnest Money for the benefit of the Buyer; provided, however, that if Buyer forfeits the Earnest Money to Seller pursuant to the terms of this Agreement, then all interest accrued on the Earnest Money will be paid to Seller.

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3. Purchase Price / Exchange Value.

- a. **PARCEL #1 SALE (FIRST ESCROW):** The total purchase price for the LEID Property (the "Parcel #1 Purchase Price") will be FIVE HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$595,000.00), of which the Earnest Money is a part. The Purchase Price, including the Earnest Money, will be paid to Seller-LEID in cash or cash equivalent from the Buyer-CITY. The parties acknowledge that the Parcel #1 Purchase Price represents more than the fair market value of the Property, which is agreed to by the CITY contingent upon completion of the land exchange for Parcel #2 in the SECOND ESCROW.
- b. **PARCEL #2 EXCHANGE (SECOND ESCROW):** The total exchange value for the JOOST Property (the "Parcel #2 Exchange Value") is a simple exchange of land, Parcel #1 (5.939± acres) for Parcel #2 (29.75± acres), with no additional money consideration. The parties acknowledge that it is not an equal market value exchange and JOOST's willingness to accept a less than equal exchange is based upon non-economic reasons that are extrinsic of market value. The parties acknowledge that Parcel #2 was appraised as part of a larger parcel on February 15, 2011 at \$20,000.00 per acre by the CITY's appointed appraiser, Johnson-Perkins & Associates, Inc., and has a total market value of \$595,000.00. The parties further acknowledge that Parcel #1 was likewise appraised by the CITY's same appointed appraiser on March 31, 2011 at a total market value of \$300,000.00.

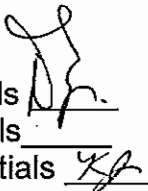
4. ALTA Survey.

- a. **PARCEL #1 (FIRST ESCROW):** Because the Buyer-CITY intends upon close of the First Escrow to quitclaim Parcel #1 to JOOST in Step 2 of the Second Escrow, all parties waive any need for an ALTA Survey of Parcel #1, which is contiguous to JOOST's existing property.
- b. **PARCEL #2 (SECOND ESCROW):** Because JOOST and CITY have agreed in this Agreement to cooperate now and in the future in creating a new access easement to Parcel #2 from Ash Canyon Road, or otherwise JOOST and the CITY will cooperate in one or more mutually beneficial lot line adjustments to accomplish the CITY's access needs, the parties waive any need for an ALTA Survey of Parcel #2.

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Handwritten initials for LEID, CITY, and JOOST are present. The LEID initials are a stylized signature. The CITY initials are a stylized signature. The JOOST initials are a stylized signature.

5. Title to the Property.

5.1 **Conveyance.** At closing of the FIRST ESCROW, and at closing of the SECOND ESCROW, the Seller of Parcel #1, the Step 1-Grantor of Parcel #2, and the Step 2-Grantor of Parcel #1 shall convey to each respective Buyer or Grantee fee simple title to the applicable Property as described in Section 1 of this Agreement, above, through a duly executed and acknowledged deed, to wit:

FIRST ESCROW: A Statutory Warranty Deed, free and clear of all defects and encumbrances and subject only to those exceptions that Buyer approves pursuant to Section 5.3 (Title Policy) and Section 6.4 (Satisfaction/Waiver of Buyer's or Grantee's Contingencies); and

SECOND ESCROW: Step 1: Quitclaim Deed; and Step 2: Quitclaim Deed; but, with regard to Parcel #2 only:

5.1.1 PARCEL #2: Fifty (50) Year Deed Restriction with Reversionary Interest in 29.75± acres: JOOST agrees to grant Parcel #2 in fee simple title to CITY on the condition that Parcel #2 be used exclusively for such purposes as construction of an access road to the CITY's water system facilities in Ash Canyon. This road must be fenced on both sides and may not be used as a primary or secondary access for the development of any public or private property. This road may be used to allow the public to access other contiguous public lands by traveling across Parcel #2. Other purposes include storm water or flood water mitigation, erosion control, or any other purpose directly benefiting the water and storm water management programs of the Carson City Public Works Department for a period of fifty (50) years. Upon close of the SECOND ESCROW, said fifty (50) years will commence upon the Closing Date. If, anytime within a period of fifty (50) years from the Closing Date, CITY uses Parcel #2 for any other purposes, including but not limited to, the use of Parcel #2 as part of a published municipal trail system or any other form of open space with public access, recreational use of Parcel #2, or attempts to sell, donate or transfer the fee simple title to Parcel #2 to a third party, the fee simple title to Parcel #2 shall revert to JOOST, its heirs or assigns. The reversionary interest shall not be effective until after Notice of Default has been served in writing by JOOST upon the CITY and the CITY has not cured its default within ninety (90) calendar days thereafter. After the period of fifty (50) years from the Closing Date, any reversionary interest shall be deemed re-conveyed to CITY and the CITY shall be permitted to use the Property for any legal purpose

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and may lease, sell, donate or transfer Parcel #2 without any restrictions and without the fee simple title to the Parcel #2 reverting to JOOST, its heirs or assigns.

**5.2 Preliminary Commitment.** Each respective Buyer or Grantee, at their own initial expense and with the full cooperation of the respective Seller or Grantor, may at their own discretion order a Preliminary Commitment for an owner's standard C.L.T.A. coverage policy of title insurance in the amount of the Purchase Price to be issued by the Title Company and accompanied by copies of all required documents (the "Preliminary Commitment").

Regardless of any C.L.T.A. coverage, all monetary encumbrances other than non-delinquent ad valorem property taxes will be deemed to be disapproved. Notwithstanding anything to the contrary in this Agreement, respective Seller or Grantor shall remove from title on or before the Closing Date all monetary encumbrances other than those approved by the respective Buyer or Grantee.

If Buyer-CITY in the FIRST ESCROW elects to terminate this Agreement under Section 6.4 (Satisfaction/Waiver of Buyer's or Grantee's Contingencies), both the FIRST and SECOND ESCROWS shall be terminated, the Deposit must be returned immediately, all documents and other funds will be returned to the party who deposited them, and no party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement. If this Agreement is terminated through no fault of Seller-LEID, then Buyer-CITY shall pay the costs of terminating both escrows and any cancellation fees for the Preliminary Commitments.

**5.3 Title Policy.** If a party elects to obtain C.L.T.A. title insurance coverage, each applicable Seller or Grantor shall cause the Title Company to issue to each applicable Buyer or Grantee at closing of both the FIRST and SECOND ESCROWS, as appropriate, a C.L.T.A. standard coverage owner's policy of title insurance insuring each such applicable Buyer's or Grantor's title to the applicable Property in the full amount of the Purchase Price subject only to the Permitted Exceptions (the "Title Policy"). Any such Title Policy must be dated as of the Closing Date.

**6. Conditions to Closing.**

**6.1 Due Diligence Materials.** Each respective Seller or Grantor shall provide to each respective Buyer or Grantee, or make available to such Buyer or Grantee for inspection, as soon as possible (but in any event no later than fifteen (15) days after the Effective Date of this Agreement) all materials specified in this Section 6.1 that exist and that are in such Seller's or Grantor's actual possession or that such Seller or Grantor knows exist and to which

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such Seller or Grantor has access (collectively, the "Due Diligence Materials"). If such Seller or Grantor thereafter discovers any additional items that should have been included among or disclosed as part of the Due Diligence Materials, such Seller or Grantor shall promptly deliver them to such Buyer or Grantee. Due Diligence Materials include:

6.1.1 Existing Easements. Copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to each respective Seller's or Grantor's knowledge, affect title to the Property and that are not disclosed by the Preliminary Commitment.

6.1.2 Surveys. All surveys, plats or plans to the applicable Property.

6.1.3 Leases and Licenses. All leases and licenses for the applicable Property, or any portion thereof.

6.1.4 Warranties. All warranties and guarantees affecting any portion of the applicable Property.

6.1.5 Litigation. Notice of any existing or threatened litigation affecting or relating to the applicable Property and copies of any pleadings with respect to that litigation.

6.1.6 Permits. All governmental permits and approvals obtained or held by the respective Seller or Grantor and relating to: (i) the construction, operation, use or occupancy of any part of the applicable Property, or (ii) zoning, land-use, subdivision, environmental, building and construction laws and regulations restricting, regulating or otherwise affecting the use, occupancy or enjoyment of the Property.

6.1.7 Notice of Violations. Any notices of violation of any permits, or laws and regulations set forth in Section 6.1.6, above.

6.1.8 Environmental. All environmental assessment reports with respect to the applicable Property that were performed or are being performed by or for the respective Seller or Grantor, including: any raw data that relates to the environmental condition of the applicable Property; any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of Hazardous Material (as defined in Section 12, below) on, in or under the applicable Property; and any other information or

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material to the environmental condition or potential contamination of the applicable Property.

## 6.2 Inspection of Property.

6.2.1 Thirty Day Period Feasibility Study. Within the 30-day period prior to closing, each respective Buyer or Grantee may conduct a review with respect to the applicable Property and satisfy itself with respect to the environmental condition, other conditions and other matters related to the Property and its suitability for each respective Buyer's or Grantee's intended use ("Feasibility Study"). Each respective Feasibility Study may include all inspections and studies each Buyer or Grantee deems necessary or desirable, in its sole discretion. Each Buyer or Grantee and their agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the date of this Agreement to enter onto the applicable Property and make borings, drive test piles and conduct any other test and studies that may be necessary or desirable to ascertain the condition and suitability of the Property for each Buyer's or Grantee's intended use. Such tests and inspections are to be performed in a manner not disruptive to tenants or to operation of the Property. Each respective Buyer or Grantee shall protect, defend and indemnify the applicable Seller or Grantor from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released.


6.2.2. Confidentiality of Reports. Prior to closing, each respective Buyer or Grantee will not distribute or divulge the information or materials it and its agents and consultants may generate in connection with the Feasibility Study to other persons except as may be required by law or as may be necessary or desirable in connection with each Buyer's or Grantee's evaluation of the Property and its suitability.

**6.3 Buyer's or Grantee's Contingencies.** Each respective Buyer's or Grantee's independent obligation to purchase or accept the applicable Property is expressly contingent upon the following:

6.3.1 Approval of the Carson City Board of Supervisors. This Agreement and the expenditure of funds to complete the purchase of Parcel #1, and subsequent exchange of Parcel #1 for Parcel #2, must be prior approved by the Carson City Board of Supervisors.

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6.3.2 Close of Escrow on Parcel #1 and Parcel #2. Buyer-CITY's duty to purchase Parcel #1 from Seller-LEID is contingent upon the successful closing of the SECOND ESCROW regarding the CITY's acquisition of Parcel #2 by Quitclaim Deed from JOOST. Grantor-JOOST's duty to grant Parcel #2 to CITY is contingent upon the CITY's FIRST ESCROW purchase and subsequent SECOND ESCROW grant of Parcel #1 by Quitclaim Deed to JOOST.

6.3.3 Feasibility Study. Each respective Buyer's or Grantee's duty to purchase is contingent upon their respective approval of the Section 6.1 Due Diligence Materials, and their respective approval of the suitability, condition and environmental condition of the applicable Property, prior to expiration of the Feasibility Study time period.

6.3.4 Parcel #1 and Parcel #2 Survey. All parties waive any need for an ALTA Survey. However, in consideration of that waiver CITY and JOOST hereby agree:

6.3.4.1 Ash Canyon Road Access Agreement - Lot Line Adjustment or Easement: JOOST intends to create a new parcel map establishing the legal existence of Parcel #2. JOOST agrees to create an adequate CITY access easement to Parcel #2 from Ash Canyon Road. JOOST and CITY agree to cooperate in the creation of that adequate access easement to Parcel #2 from Ash Canyon Road. JOOST and CITY agree to cooperate in the future in negotiating one or more mutually beneficial lot line adjustments to accomplish the transfer to the CITY ultimate ownership of Parcel #2 access from Ash Canyon Road. At the time the lot line adjustments are completed, CITY will fence, at its expense, the resulting south boundary of Parcel #2.

6.3.5 Title Policy. Each applicable Buyer's or Grantee's duty to purchase or accept is contingent upon receipt of any exercised right to require a Title Company's firm commitment to issue, upon closing, the C.L.T.A. Title Policy as described in this Agreement.

6.3.6 Representations and Warranties. Each respective Buyer's or Grantee's duty to purchase or accept is contingent upon that all the representations and warranties contained in or made pursuant to this Agreement are true and correct when made and as of the Closing Date.

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6.3.7 Seller's or Grantor's Compliance. Each respective Buyer's or Grantee's duty to purchase or accept is contingent upon each respective Seller's or Grantor's timely performance of all of its obligations under this Agreement; provided each respective Seller or Grantor will be given notice of any failure on its part to perform obligations pursuant to the respective Seller's or Grantor's covenants and warranties made in this Agreement and those obligations required of it during the Feasibility Study period and will have a period of time, that is reasonable under the circumstances, to cure its nonperformance.

The foregoing conditions contained in Section 6.3 are collectively referred to in the Agreement as "Buyer's or Grantee's Contingencies."

6.4 **Satisfaction/Waiver of Buyer's or Grantee's Contingencies.** Each Buyer's or Grantee's Contingencies are solely for the benefit of the respective Buyer or Grantee. If any of the respective Buyer's or Grantee's Contingencies are not timely satisfied, that particular Buyer or Grantee will have the right at its sole election to terminate this Agreement. If a respective Buyer or Grantee elects to terminate this Agreement, the applicable escrow will be terminated, the Earnest Money must immediately be returned to applicable party, and all documents and other funds will be returned to the party who deposited them, and no applicable party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement, except that the party electing to terminate shall pay the complete cost of termination of the applicable escrow.

7. **Closing Date.** Because of the contingency interdependence between the two escrows, this transaction will be closed in two (2) sequential escrows contiguous in time by the Title Company acting as escrow agent ("Escrow Agent"). The closing will be held at the office of the Title Company on or before that date which is fifteen (15) days after the end of the Feasibility Study, but in any event no later than September 30, 2011 for both the PARCEL #1 FIRST ESCROW and PARCEL #2 SECOND ESCROW, unless another date or time is agreed to by the parties in writing ("Closing Date"); provided the applicable Buyer or Grantee shall have no obligation to agree to a later Closing Date unless applicable Seller or Grantor agrees in writing to such later Closing Date. If any respective closing does not occur on the Closing Date, or any later date mutually agreed to in writing by the applicable Buyer or Grantee and applicable Seller or Grantor, Escrow Agent will immediately terminate the escrow, forward the Earnest Money to the party entitled to receive it as provided and return all documents to the party that deposited them.

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8. Closing.

8.1 **Seller's and Grantor's Escrow Deposit.** On or before the Closing Date, each respective Seller or Grantor shall deposit into escrow the following:

8.1.1 Grant Bargain & Sale Deed. Seller-LEID to deposit into the First Escrow a duly executed and acknowledged Grant, Bargain & Sale Deed to Parcel #1 and evidence to the satisfaction of the Escrow Agent that Seller-LEID is the sole surviving member or heir of any recorded joint tenancy or tenants in common title to Parcel #1.

8.1.2 Quitclaim Deeds. Grantor-JOOST to deposit into the Second Escrow (Step 1) a duly executed and acknowledged Quitclaim Deed to Parcel #2 to CITY; Grantor-CITY to deposit into the Second Escrow (Step 2) a duly executed and acknowledged Quitclaim Deed to Parcel #1 to JOOST.

8.1.3 Documents. Any other documents, instruments, records, correspondence and agreements called for hereunder that have not previously been delivered.

8.2 **Buyer's or Grantee's Escrow Deposits.** On or before the Closing Date, each respective Buyer or Grantee shall deposit into each respective escrow the following:

8.2.1 Purchase Price. Buyer-CITY to deposit into the First Escrow funds in an amount sufficient to pay the Purchase Price for Parcel #1 to LEID, plus all closing costs.

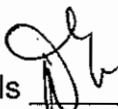
8.2.2 Other Documents. Any other documents or instruments respective Buyer or Grantee is obligated to provide pursuant to this Agreement (if any) in order to close this transaction.

8.3 **Additional Instruments and Documentation.** Each respective Seller or Grantor and Buyer or Grantee shall each deposit any other instruments and documents that are reasonably required by Escrow Agent or otherwise required to close the escrow and consummate the purchase and sale or exchange of the applicable Property in accordance with this Agreement.

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## 8.4 Closing Costs.

8.4.1 Buyer's Costs. Buyer-CITY in the First Escrow and Grantee/Grantor-CITY in the Second Escrow shall be obligated to pay any associated closing costs related to the escrows and the recordation of documents on the purchase and land exchange.

8.4.2 Seller's or Grantor's Costs. Seller or Grantor shall pay any State of Nevada Real Property Transfer Taxes applicable to the respective sale or exchange of real property.

8.4.3 No Tax Warranties. The parties make no warranties to each other in connection with, or with respect to, tax treatment of any transactions contemplated under this Agreement under state or federal law.

9. Adjustments and Prorations. The following adjustments and prorations will be made as of the Closing Date (with Buyer or Grantee either responsible for or entitled to a credit for, as the case may be, on the actual Closing Date).

9.1 **Property Taxes.** All property taxes payable in the year of closing and assessments approved by applicable Buyer or Grantee, if any, will be prorated.

9.2 **Utilities.** All gas, electric and other utility charges, if any, will be prorated as of the Closing Date.

9.3 **Accounts Payable.** Except as may be otherwise agreed by the applicable Seller or Grantor and applicable Buyer or Grantee in writing, all sums due for accounts payable that were owing or incurred in the maintenance or operation of the Property prior to the Closing Date will be paid by the applicable Seller or Grantor on or prior to the Closing Date or adequate provisions reasonably satisfactory to applicable Buyer or Grantee will be made in respect to such payment. Applicable Seller or Grantor agrees to indemnify and hold applicable Buyer or Grantee harmless with respect to all such obligations. Applicable Buyer or Grantee shall furnish to applicable Seller or Grantor for payment promptly following receipt of any bills to be paid by Seller or Grantor. Except as may be otherwise agreed to by applicable Buyer or Grantee and Seller or Grantor in writing, all accounts payable incurred on or after the Closing Date with respect to the Property will be paid by Buyer or Grantee, and Buyer or Grantee agrees to indemnify Seller or Grantor with respect thereto.

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**10. Seller's or Grantor's Covenant to Maintain and Preserve the Property.**

Prior to Closing Date, respective Seller or Grantor shall preserve, maintain, repair, manage and operate the Property so as to preserve the existing improvements, if any, in their current condition, and the respective Seller or Grantor shall not permit the transfer of any of the Property and shall maintain in full force and effect policies of liability and property insurance.

**11. Representations, Warranties, Covenants.** The following covenants shall survive closing and, unless expressly provided otherwise herein, shall not be merged into the Deed.

**11.1 Seller's or Grantor's Representations and Warranties.** Respective Seller or Grantor represents and warrants to respective Buyer or Grantee as follows:

**11.1.1 Authority.** Seller or Grantor has full power and authority to convey the Property to Buyer or Grantee.

**11.1.2 Compliance with Laws.** To the best of Seller's or Grantor's knowledge, the Property is now, or will be as of the Closing Date, in compliance with all material respects with all applicable zoning, land-use, building, construction, subdivision and other local, state and federal laws, ordinances and regulations and with all existing covenants, conditions and restrictions.

**11.1.3 Inaccuracies.** To the best of Seller's or Grantor's knowledge, all Due Diligence Materials to this Agreement are complete and accurate originals or copies, and Seller or Grantor shall advise Buyer or Grantee in writing of any inaccuracies of these materials as Seller or Grantor becomes aware of them. With respect to all other instruments and documents delivered or required to be delivered to Buyer or Grantee by Seller or Grantor pursuant to this Agreement, Seller or Grantor has not purposely altered or withheld any of them.

**11.1.4 Special Assessments.** Seller or Grantor has not received notice of any special assessment or condemnation proceedings affecting the Property.

**11.1.5 Pending Litigation.** To the best of Seller's or Grantor's knowledge, except for threatened litigation by Wellington Crescent homeowners regarding seasonal water run-off from Parcel #2, there is no pending litigation or threatened litigation against Seller or Grantor (or any basis for any claim) that arises out of the ownership of the

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Property and that might materially and detrimentally affect: (i) the use or operation of the Property for Buyer's or Grantee's intended use; or (ii) the ability of Seller or Grantor to perform its obligations under this Agreement, or (iii) the value of the Property.

11.1.6 Organizational Status. LEID is a single person. CITY is a Nevada consolidated municipality and JOOST is a Nevada corporation, both of which are duly organized and validly existing under the laws of the State of Nevada. This Agreement and all documents executed by respective Seller or Grantor that are to be delivered to respective Buyer or Grantee at closing are, or at the time of closing will be (i) duly authorized, executed and delivered by Seller or Grantor, (ii) legal, valid and binding obligations of Seller or Grantor, (iii) sufficient to convey title (if they purport to do so), and (iv) in compliance with all provisions of all agreements and judicial orders to which Seller or Grantor is a party or to which Seller or Grantor or all or any portion of the Property is subject.

11.1.7 Deposits. As of the Effective Date, respective Seller or Grantor have no liability for tenant security or lease deposits.

11.1.8 Notice of Failure. Respective Seller or Grantor has received no notice of any failure of Seller or Grantor to comply with any applicable governmental requirements in respect to the use, occupation and construction of the Property, including but not limited to, environmental, fire, health, safety, zoning, subdivision and other land use requirements that have not been corrected to the satisfaction of the appropriate governmental authority, and Seller or Grantor has received no notice of, and has no knowledge of, any violations or investigation relating to any such governmental requirement.

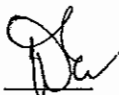
11.1.9 Notice of Default. Respective Seller or Grantor has received no notice of default or breach by Seller or Grantor under any covenants, conditions, restrictions, rights of way or easements that may affect Seller or Grantor in respect to the Property or may affect the Property or any portion thereof and no such default or breach now exists.

11.1.10 Encroachments. No building or other improvement encroaches on the Property, nor does any building or improvement that is a part of the Property encroach on lands of others or any public or private road or right of way.

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11.1.11 Default. To the respective Seller's or Grantor's knowledge there has been no default or any claim of default and no event has occurred that with notice or lapse of time or both would constitute a default under any tenant lease and to Seller's or Grantor's knowledge no tenant has asserted or has any defense, set off or claim with respect to its tenancy pursuant to the lease, any law or otherwise.

11.1.12 Existing Leases. There is no existing lease affecting this Property. Respective Seller or Grantor represents that there are no other written or oral promises, understandings or agreements between Seller or Grantor and any tenant that has not been disclosed by Seller or Grantor as a part of the materials provided to Buyer or Grantee.

11.1.13 Permits. To the Respective Seller's or Grantor's knowledge there are no permits, licenses or consents required by any governmental authority in connection with the use and occupancy of the Property except those previously obtained by Seller or Grantor and delivered to Buyer or Grantee, and Seller or Grantor knows of no local improvement districts proposed which will affect the Property.


11.1.14 Public Utilities. All public utilities, if any, required for the operation of the Property either enter the Property through adjoining public streets or, if they pass through adjoining private lands, do so in accordance with valid public easements that will inure to the benefit of respective Buyer or Grantee on the Closing Date.

11.1.15 Survival of Representations. All representations, warranties and covenants of respective Seller or Grantor contained in this Agreement are true and correct as of the Effective Date and as of the Closing Date and will survive the closing of the transaction contemplated by this Agreement.

**11.2 Buyer's or Grantee's Representations and Warranties.** Respective Buyer or Grantee represents and warrants to respective Seller or Grantor that Buyer or Grantee to this Agreement and all documents executed by Buyer or Grantee that are to be delivered to Seller or Grantor at closing are, or at the time of closing will be (i) duly authorized, executed and delivered by Buyer or Grantee, (ii) legal, valid and binding obligations of Buyer or Grantee, and (iii) in compliance with all provisions of all agreements and judicial orders to which Buyer or Grantee is a party or to which Buyer or Grantee is subject.

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11.3 **Legal Counsel.** Respective Buyer or Grantee and Seller or Grantor have had the opportunity to consult with independent legal counsel and are aware of the potential risks and obligations of proceeding with this Agreement.

**12. Hazardous Material.**

**12.1 Definitions.**

12.1.1 Environmental Laws. The term "Environmental Laws" means any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health and the environment.

12.1.2 Hazardous Material. The term "Hazardous Material" means any hazardous or toxic substance, material or waste, including but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. Sec. 172.10) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. pt. 302 and amendments thereto) or in the Nevada Hazardous Materials Act (NRS chapter 459), petroleum products and their derivatives, and such other substances, materials and wastes regulated or subject to cleanup authority under any Environmental Laws.

**12.2 Compliance with Environmental Laws.** Respective Seller or Grantor represents and warrants that:

12.2.1 Seller or Grantor has no actual knowledge of the release or presence of any Hazardous Material on, in, from or onto the Property;

12.2.2 Seller or Grantor has not generated, manufactured, refined, transported, stored, handled, disposed of or released any Hazardous Material on the Property, nor has Seller or Grantor permitted the same;

12.2.3 To the best of Seller's or Grantor's actual knowledge, Seller or Grantor has obtained all approvals and caused all notifications to be made as required by Environmental Laws;

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12.2.4 To the best of Seller's or Grantor's actual knowledge, Seller or Grantor has not received any notice of any violation of any Environmental Laws;

12.2.5 To the best of Seller's or Grantor's actual knowledge, no action has been commenced or threatened regarding Seller's or Grantor's compliance with any Environmental Laws;

12.2.6 To the best of Seller's or Grantor's actual knowledge, no tanks used for the storage of any Hazardous Material above or below ground are present or were at any time present on or about the Property; and

12.2.7 To the best of Seller's or Grantor's actual knowledge, no action has been commenced or threatened regarding the presence of any Hazardous Material on or about the Property.

**12.3 No Waiver of Liability Set.** Respective Seller or Grantor has not released or waived and will not release or waive the liability of any previous owner, lessee or operator of the applicable Property or any party who may be potentially responsible for the presence or removal of any Hazardous Material on or about the applicable Property. Seller or Grantor has made no promises of indemnification regarding Hazardous Material to any party.

**12.4 Environmental Inspection.** During the Feasibility Study period, respective Buyer or Grantee will have the right to take soil and water samples (including ground water samples) from the Property, and to test and analyze those samples to determine the extent of any contamination of the soils and water (including ground water) on or about the applicable Property and to conduct such additional studies or investigations as Buyer or Grantee deems necessary, including without limitation asbestos surveys.

**13. Possession.** Respective Seller or Grantor shall deliver possession of the Property to respective Buyer or Grantee on the Closing Date.

**14. Events of Default.**

**14.1 By Respective Seller or Grantor.** If there is an event of default under this Agreement by respective Seller or Grantor (including a breach of any representation, warranty or covenant), respective Buyer or Grantee will be entitled: (i) in addition to all other remedies available at law or in equity, to seek specific performance of Seller's or Grantor's obligations under this Agreement, or (ii) to terminate this Agreement by written notice to Seller or

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Grantor and Escrow Agent. If Buyer or Grantee terminates this Agreement as provided for herein, the escrow will be terminated, the entire Earnest Money Deposit must be immediately returned to Buyer or Grantee, and all documents will be immediately returned to the party who deposited them, and no party will have any further rights or obligations under this Agreement, except that Seller or Grantor shall pay any costs of terminating the respective escrow and any cancellation fee for the Preliminary Commitment.

**14.2 By Respective Buyer or Grantee.** In the event respective Buyer or Grantee fails, without legal excuse, to complete the purchase of the Property, the Earnest Money Deposit made by Buyer or Grantee will be forfeited to respective Seller or Grantor as the sole and exclusive remedy available to Seller or Grantor for such failure.

**15. Notices.** Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service or given by mail or via facsimile. Any notice given by mail must be sent, postage prepaid, by certified or registered mail, return receipt requested. All notices must be addressed to the parties at the following addresses or such other addresses as the parties may from time to time direct in writing:

PARCEL #1 SELLER:

David M. Leid  
1419 Longview Way  
Carson City, NV 89703

PARCEL #1 BUYER / PARCEL #1 GRANTOR / PARCEL #2 GRANTEE:

Carson City  
3505 Butti Way  
Carson City, NV 89701

With Copy to:

Carson City District Attorney's Office  
885 East Musser St. Ste #2030  
Carson City, NV 89701

PARCEL #2 GRANTOR / PARCEL #1 GRANTEE:

Joost Land and Cattle Company, Inc.  
Post Office Box 25  
Carson City, NV 89702

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Any notice will be deemed to have been given, if personally delivered, when delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit at any post office in the United States of America, and if delivered via facsimile, the same day as verified, provided that if any verification occurs after 5 p.m. on a business day, or at any time on a Saturday, Sunday, or holiday, it will be deemed to have occurred as of 9:00 a.m. on the following business day.

16. **Brokers and Finders.** None of the parties have had any contact or dealings with the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or a finder's fee as procuring cause of the transactions contemplated by this Agreement. If any broker or finder perfects a claim for a commission or finder's fee based upon any other contract, dealings or communication, the party through whom the broker or finder makes his or her claim will be responsible for that commission or fee and shall indemnify, defend and hold harmless the other parties from and against any liability, cost or damages (including attorney fees and costs) arising out of that claim.
17. **Amendments.** This Agreement may be amended or modified only by a written instrument executed by LEID, CITY and JOOST and must be approved by the Carson City Board of Supervisors.
18. **Continuation of Survival of Representations and Warranties.** All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of any deed and transfer of title. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.
19. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Nevada. Venue shall be in the First Judicial District Court of the State of Nevada, Carson City.
20. **Entire Agreement.** This Agreement and the exhibits, if any, to it constitute the entire agreement between the parties with respect to the purchase and sale of the Property, and supersedes all prior agreements and understandings between the parties relating to the subject matter of this Agreement. It is

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expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth.

21. **Attorney Fees.** Each party shall pay its own legal fees relating to negotiation and drafting of this Agreement and the documents to be executed at closing. If any party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not substantially prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy court proceeding.
22. **Time is of the Essence.** Time is of the essence of this Agreement.
23. **Exclusivity.** Respective Seller or Grantor shall not market the Property actively until after the expiration of the Feasibility Study period and then only if Respective Buyer or Grantee elects not to proceed with the purchase of the Property.
24. **Waiver.** Neither respective Seller's or Grantor's nor respective Buyer's or Grantee's waiver of the breach of any covenant under this Agreement will be construed as a waiver of a subsequent breach of the same covenant.
25. **Parcel #1 Non-merger.** With regard to Parcel #1, the terms and provisions of this Agreement, including, without limitation, all indemnification obligations will not merge in the resulting deed, but will survive, the closing of the transaction contemplated under this Agreement.
26. **Parcel #2 Merger in Part.** With regard to Parcel #2, the terms and provisions of this Agreement relevant to the reversionary interest of JOOST will merge into the resulting deed. As to those provisions of this Agreement that do not merge, including without limitation, all indemnification obligations that will not merge in the resulting deed, they shall survive the closing of the transaction contemplated under this Agreement.
27. **Negotiation and Construction.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against any party.

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28. **Government Approval.** The parties acknowledge and understand that this Agreement does not bind Carson City until it has been approved by the Carson City Board of Supervisors in an open and publicly noticed meeting.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby.

**PARCEL #1 SELLER:**

DAVID M. LEID, a Single Person

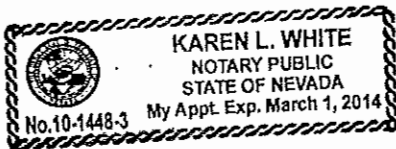
*David M. Leid*

DAVID M. LEID

State of Nevada

County of Carson City

This instrument was acknowledged before me on the 18<sup>th</sup> day of August, 2011, by DAVID M. LEID.



*Karen L. White*  
.....  
(Signature of notarial officer)

*Notary Public*  
.....  
(Title and rank [optional])

(Seal)

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JOOST Initials *JK*



**PARCEL #1 BUYER / PARCEL #1 GRANTOR / PARCEL #2 GRANTEE:**

Carson City, a Consolidated Municipality

By: \_\_\_\_\_  
LAWRENCE A. WERNER, City Manager

State of Nevada

County of Carson City

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by LAWRENCE A. WERNER, as City Manager of CARSON CITY, NEVADA, a Consolidated Municipality.

.....  
(Signature of notarial officer)

.....  
(Title and rank [optional])

(Seal)

Approved by the Carson City Board of Supervisors:

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

By: \_\_\_\_\_  
Deputy District Attorney

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**PARCEL #2 GRANTOR / PARCEL #1 GRANTEE:**

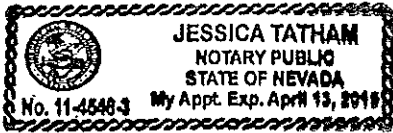
JOOST LAND AND CATTLE COMPANY, INC., a Nevada Corporation

By: *Karen Joost*  
KAREN JOOST, President

State of Nevada

County of Carson

This instrument was acknowledged before me on the 18<sup>th</sup> day of August, 2011, by KAREN JOOST, as President of JOOST LAND AND CATTLE COMPANY, INC., a Nevada Corporation.



*Jessica Tatham*  
(Signature of notarial officer)

.....  
(Title and rank [optional])

(Seal)

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JOOST Initials *KJ*