Summary:
An ordinance creating Clark County, Nevada, Improvement District No. 137A - Cleveland Avenue – Walnut Road to Gateway Street, ratifying action taken by County officers toward the creation of such District and providing other matters related thereto.

BILL NO. ______

ORDINANCE NO. ______
(of Clark County, Nevada)

AN ORDINANCE CREATING CLARK COUNTY, NEVADA, IMPROVEMENT DISTRICT NO. 137A - CLEVELAND AVENUE – WALNUT ROAD TO GATEWAY STREET AND PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AS IF AN EMERGENCY EXISTS.

WHEREAS, the Board of County Commissioners of the County of Clark in the State of Nevada (the “Board,” “County” and “State,” respectively) has determined and does declare that the public convenience and necessity require, and the Board deems it necessary to create, the Clark County, Nevada, Improvement District No. 137A - Cleveland Avenue – Walnut Road to Gateway Street (the “District”), for the purpose of acquiring a Street Project, as defined in Nevada Revised Statutes (“NRS”) Chapter 271 (the “Project”), and to defray a portion of the entire cost and expense of the Project by special assessments, according to benefits, against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, by a resolution previously passed and approved (the “Provisional Order Resolution”), the Board declared its determination to create the District for the purpose of making the improvements, stating therein the character and location of the improvements, what portion of the entire expense thereof shall be paid by special assessments, and that the assessment is to be made according to benefits, by apt description designating the District, including the lands to be so assessed and definitely locating the improvements to be made; and

WHEREAS, the Board has previously determined that a portion of the cost and expense of the Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in the District, which the Board has determined will receive special benefits (and corresponding market value increases) from the Project; and

WHEREAS, among other documents, the County Director of Public Works (the “Engineer”) made out a preliminary assessment roll and an assessment plat for the District which contains, among other things, the names and addresses of the last-known owners of the property
to be assessed, or if not known, stating that the name is "unknown"; a description of each lot, tract, or parcel of land to be assessed; the market value of each lot; the amount of the estimated assessment to be levied thereon; and the amount of maximum special benefits (and corresponding market value increases); and the Engineer has reported to the Board the preliminary assessment roll and assessment plat, and has prepared and reported the "Engineer’s Report to the Board of County Commissioners on Benefits" (the "Engineer’s Report") and has filed the assessment plat, the preliminary assessment roll and the Engineer's Report with the County Clerk of the County (the "County Clerk"); and

WHEREAS, pursuant to the Provisional Order Resolution, the Board gave notice (in the manner specified by NRS 271.305) of the filing of the preliminary plans, assessment plat, preliminary assessment roll, typical section of the contemplated improvements, preliminary estimate of cost, and estimate of maximum benefits (and corresponding market value increases), and of the time and place of a hearing thereon; and

WHEREAS, the manner of giving such notice by mail, publication and posting was reasonably calculated to inform the parties of the proceedings concerning the District which might directly and adversely affect their legally protected interest; and

WHEREAS, all owners of property to be assessed and interested persons so desiring were permitted to file a written complaint, protest or objection on or before Friday, October 17, 2008, to appear before the Board on Tuesday, October 21, 2008, to be heard as to the propriety and advisability of acquiring and improving the Project provisionally ordered, as to the estimated cost thereof, the manner of payment therefor, and as to the amount thereof to be assessed, the benefits estimated to be conferred against each tract, and the corresponding market value increases expected for each tract in the District; and

WHEREAS, the Board has determined that the exception provided by NRS 271.306(2)(b) does exist with respect to the District as the Project constitutes not more than 2,640 feet, including intersections, remaining unimproved in any street, including an alley, between improvements already made to either side of the same street or between improvements already made to intersecting streets.
WHEREAS, the written and oral complaints, objections and protests received were duly considered by the Board, and the Board has determined that it is in the best interests of the District, the County, and the inhabitants thereof to create the District; and

WHEREAS, every written complaint, protest and objection was found to be without sufficient merit and was overruled by the Board by the Improvement District No. 137A Protest Disposal Resolution except as otherwise provided and ordered in said resolution; and

WHEREAS, any person filing a written complaint, protest or objection shall have the right within 30 days after the Board has finally passed on such complaint, protest or objection to commence an action or suit in any court of competent jurisdiction to correct or set aside such determination; and

WHEREAS, the Board and officers of the County have done all things necessary and preliminary to the creation of the District, including, without limitation, the filing with the County Clerk of an accurate estimate of cost, full and detailed revised and final plans and specifications, revised assessment plat, revised and final map, and a report on benefits by the Engineer, and the Board desires now to authorize such improvements and work and to create the District by this ordinance.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, IN THE STATE OF NEVADA, DO ORDAIN:

Section 1. This ordinance shall be known as, and may be cited by, the short title “Improvement District No. 137A Creation Ordinance” (the “Ordinance”).

Section 2. The Board has previously determined and now confirms that each and every protest and objection made in connection with the District is without sufficient merit and the same be, and the same previously has been by the Improvement District No. 137A Protest Disposal Resolution, overruled and finally passed upon by the Board, except as otherwise set forth in the Improvement District No. 137A Protest Disposal Resolution.

Section 3. The Board has also determined and does declare as follows:

(a) The public convenience and necessity require the creation of the District.

(b) The creation of the District is economically sound and feasible.
(c) The market value of each of the benefited lots, tracts and parcels of land in the District will be increased by an amount directly attributable to the Project for which the assessment is to be made.

Section 4. There is created in the County an improvement district designated the “Clark County, Nevada, Improvement District No. 137A - Cleveland Avenue – Walnut Road to Gateway Street” for the purpose of acquiring the Project as more fully described below:

Cleveland Avenue (north and south side) from the centerline of Walnut Road east along Cleveland Avenue to the centerline of Gateway Street (50’ right-of-way);

Walnut Road (east side) from a point approximately 125 feet south of the centerline of Cleveland Avenue north along Walnut Road to a point approximately 125 feet north of the centerline of Cleveland Avenue (60’ right-of-way).

Gateway Street (west side) from a point approximately 125 feet south of the centerline of Cleveland Avenue north along Gateway Road to a point approximately 125 feet north of the centerline of Cleveland Avenue (60’ right-of-way).

Section 5. The Project, which is ordered by this Ordinance to be acquired, shall be located within the boundaries of the District, and shall be as shown in the final plans and specifications previously filed in the County Clerk’s office, without minor details being described, and the character of the improvements in the District shall be described more particularly as follows:

Except as shown on the preliminary plans and specifications now on file in the office of the Clark County Clerk (the “Clerk”) and the office of the County Engineering Department in Las Vegas, Nevada, the character of the Project shall be described more particularly as follows: The proposed improvements on Cleveland Avenue (50’ wide right-of-way) will consist of 32’ wide pavement, asphalt residential driveway approaches with on site driveway transitions (where required), removal of concrete driveways (where required), and adjustment of utility surface features.

The proposed improvements on Walnut Road will extend the distance of the corner lot (south of Cleveland Avenue) and consist of 10.5’ wide pavement with a northbound transition to match existing pavement. The proposed improvements on Walnut Road (north of
Cleveland Avenue) will extend to a distance of 85’ from the centerline of Cleveland Avenue and consist of 17.5’ wide pavement to match existing pavement.

The proposed improvements on Gateway Street (south of Cleveland Avenue) will extend the distance of the corner lot and consist of 15.5’ wide pavement with a southbound transition. The proposed improvements on Gateway Street (north of Cleveland Avenue) will extend a distance of 88’ from the centerline of Cleveland Avenue and consist of 15.5’ wide pavement to match existing pavement.

Section 6. The Board has determined that the cost of the Project is of special benefit and shall be paid in part by special assessments against the lots, tracts and parcels of land benefited. That the total cost of the Project shall be apportioned and assessed as follows:

<table>
<thead>
<tr>
<th>Total Cost</th>
<th>Estimated Amount of Special Assessment</th>
<th>Amount Available from Other Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>$293,114.08</td>
<td>$148,782.47</td>
<td>$144,331.61</td>
</tr>
</tbody>
</table>

The amounts to be assessed for the improvements in the District will be levied upon all tracts in the District, i.e., upon all abutting tracts in proportion to the special benefits derived (as shown by the estimated benefits and corresponding market value increases) on a front footage basis; provided, however, that an equitable adjustment will be made for assessments to be levied against wedge or V or other irregularly shaped lots or lands, if any, and for any lot, tract or parcel not specially benefited by the improvements so that assessments according to benefits are to be equal and uniform. The portion of the costs to be assessed against, and the maximum amount of benefits estimated (and corresponding market value increases) to be conferred upon, each piece or parcel of property in the District is stated in the assessment plat and addendum thereto, designated as the Preliminary Assessment Roll. In cases of wedge or V or any other irregularly shaped tracts, the amount apportioned thereto shall be in proportion to the special benefits thereby derived.

The properties in the District will be assessed for a 32’ wide pavement section on Cleveland Avenue, a 15.5’ pavement section on Gateway Street, a 10.5’ pavement section on Walnut Road (south of Cleveland Avenue), and a 17.5’ pavement section on Walnut Road (north of Cleveland Avenue).
The boundaries of the District shall be the exterior boundary of each parcel of property fronting a street to be improved by the improvements or fronting a cul-de-sac where one of the parcels fronting the cul-de-sac abuts a street to be improved.

Section 7. The portion of the costs to be assessed against, and the maximum amount of benefits estimated (and corresponding market value increases) to be conferred upon, each piece or parcel of property in the District is stated in the assessment plat and addendum thereto designated “Preliminary Assessment Roll.”

Section 8. The Engineer is authorized to advertise for the doing of the work and making the improvements in the Las Vegas Review Journal, a daily newspaper published in Las Vegas, Nevada, and of general circulation in the County. Such notice shall be published at least once, not less than seven days before the opening of bids. The notice shall be in substantially the form provided by the plans, specifications, and contract documents.

Section 9. After the award of the contract, the Board shall determine the total cost of such work, including incidentals, and assessments shall be levied in accordance with the laws of the State, and the Board shall provide that the assessments may be payable without interest or demand at the election of the owner during a specified cash payment period, or in twenty (20) substantially equal semi-annual installments of principal. The Board shall also provide the time and terms of payment of such assessments, and shall fix penalties (at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the County Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest) to be collected upon delinquent payments. The County Manager or the Chief Financial Officer of the County shall fix the rate of interest on the unpaid and deferred installments of assessments. If assessment bonds are issued, such rate will not exceed by more than 1.0% the highest rate of interest on the assessment bonds issued for the District. The effective interest rate on the assessment bonds of the District will not exceed the statutory maximum rate, i.e., will not exceed by more than three (3%) per cent the “Index of Twenty Bonds” which is most recently published before the bids for such bonds are received, or at the time a negotiated offer for the sale of such bonds is accepted. If assessment bonds are not issued for the District, such rate shall not exceed 9.0% per annum.
Section 10. All action, proceedings, matters and things previously taken, had and done by the County, and the officers thereof (not inconsistent with the provisions of this Ordinance), concerning the District, including, but not limited to, the performing of all prerequisites to the creation of the District, the acquisition of the improvements, the specially benefited property therein, the determination that the lots, tracts and parcels of land in the District will receive special benefits and market value increases, and the levy of assessments for that purpose be, and the same are, ratified, approved and confirmed.

Section 11. The officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings, construction contracts, engineering specifications, contract addenda, and other items necessary or desirable for the completion of the levying of the assessments for the District and the issuance of the bonds therefor.

Section 12. In accordance with subsection 6 of NRS 271.325, upon the final adoption of this Ordinance the County Clerk is authorized and directed to immediately file in the office of the County Recorder a certified copy of the Preliminary Assessment Roll (the list of the tracts to be assessed). The County Recorder is to record such assessment roll for the purpose of establishing of record the lien or liens against the lots, tracts, and parcels of land and the amounts of maximum benefits estimated to be assessed against each tract in the assessment area as set forth in this Ordinance.

Section 13. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, previously repealed.

Section 14. Pursuant to NRS 271.325(2), this Ordinance may be adopted as if an emergency now exists, and may become effective at any time when an emergency ordinance of the County may go into effect. Consequently, pursuant to NRS 271.325(2) and 244.095 through 244.115, final action shall be taken immediately, and this Ordinance shall be in effect from and after its publication by title and collateral statement as provided in this Ordinance.

Section 15. After this Ordinance is signed by the Chairman of the Board and attested and sealed by the County Clerk, this Ordinance shall be published by title only, together

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with the names of the Commissioners voting for or against its passage, and with a statement that typewritten copies of the Ordinance are available for inspection by all interested parties at the office of the County Clerk, such publication to be made in the Las Vegas Review Journal, a newspaper published and having general circulation in the County, at least once a week for a period of two (2) weeks by two (2) insertions, pursuant to NRS 244.100 and all laws thereunto enabling, such publication is to be in substantially the following form:
(Form of Publication after final adoption of Ordinance)

BILL NO. ________

ORDINANCE NO. ________

(of Clark County, Nevada)

AN ORDINANCE CREATING CLARK COUNTY, NEVADA, IMPROVEMENT DISTRICT NO.137A - CLEVELAND AVENUE – WALNUT ROAD TO GATEWAY STREET AND PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AS IF AN EMERGENCY EXISTS.

PUBLIC NOTICE IS HEREBY GIVEN that typewritten copies of the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Clerk of Clark County, Nevada, at her office on the sixth floor of the Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada; and that the ordinance was proposed by Commissioner ________________ on March 3, 2009, and following a public hearing passed and adopted without amendment at the same regular meeting as an emergency ordinance by the following vote of the Board:

Those Voting Aye:   

________________________________________

________________________________________

________________________________________

________________________________________

Those Voting Nay:

________________________________________

Those Absent and Not Voting:

________________________________________

Those Abstaining:

________________________________________

This Ordinance shall be in force and effect from and after 17th day of the month of March of the year of 2009, i.e., the date of the second publication of such ordinance by its title only.
IN WITNESS WHEREOF, the Board of County Commissioners of Clark County, Nevada, has caused this ordinance to be published by title only.

DATED this March 3, 2009.

/s/Rory Reid
Chairman
Board of County Commissioners
Clark County, Nevada

(SEAL)

Attest:

/s/ Shirley B. Parraguez
County Clerk

(End of Form of Publication)
Section 16. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.


Proposed by Commissioner ____________.


Those Voting Aye: 
Susan Brager
Lawrence L. Brown III
Tom Collins
Chris Giunchigliani
Rory Reid
Steve Sisolak
Lawrence Weekly

Nays: ____________________________________________

Absent: __________________________________________

Abstaining: _______________________________________

_________________________________________________
Chairman
Board of County Commissioners
Clark County, Nevada

Attest:

___________________________________________
County Clerk

This Ordinance shall be in force and effect from and after 17th day of the month of March of the year of 2009, i.e., the date of the second publication of such ordinance by its title only.

Reviewed by Deputy District Attorney

__________________________
Deputy District Attorney
STATE OF NEVADA  
COUNTY OF CLARK

I, Shirley B. Parraguirre, the duly elected, qualified and acting County Clerk of Clark County (the “County”), Nevada, and ex officio Clerk of its Board of County Commissioners (the “Board”), do hereby certify:

1. The foregoing pages are a true and correct copy of an ordinance (the “Ordinance”) introduced, passed and adopted by the Board at a regular meeting of the Board held on March 3, 2009. A quorum of the Board was in attendance at the meeting.

2. The adoption of the Ordinance was duly moved and seconded and the Ordinance was adopted by an affirmative vote of at least two-thirds of the members of the Board at the regular meeting of the Board on March 3, 2009, as follows:

   Those Voting Aye:
   Susan Brager
   Lawrence L. Brown III
   Tom Collins
   Chris Giunchigliani
   Rory Reid
   Steve Sisolak
   Lawrence Weekly

   Those Voting Nay: 
   ________________________________

   Those Absent: 
   ________________________________

   Those Abstaining: 
   ________________________________

3. The members of the Board were present at the meeting and voted on the passage of such Ordinance as set forth above.

4. The Ordinance was approved and authenticated by the signature of the Chairman of the Board, sealed with the County seal, attested by the Clerk and recorded in the minutes of the Board.

5. All members of the Board were given due and proper notice of the meeting. Public notice of the meeting was given and the meeting was held and conducted in full compliance with the provisions of NRS 241.020. A copy of the notice of the meeting was posted not later than 9:00 a.m. at least 3 working days in advance of the meeting at:

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(i) Principal Office  
Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, Nevada  

(ii) Winchester Park and Center  
3130 South McLeod  
Las Vegas, Nevada  

(iii) Paradise Park, Pool and Center  
4775 McLeod Drive  
Las Vegas, Nevada  

(iv) Desert Breeze Park & Community Center  
8275 Spring Mountain Road  
Las Vegas, Nevada  

6. Prior to 9:00 a.m. at least 3 working days before such meeting, such notice  
was mailed to each person, if any, who has requested notices of meetings of the Board in  
compliance with NRS 241.020(3)(b) by United States Mail, or if feasible and agreed to by the  
requestor, by electronic mail.  

7. A copy of the notice was posted on the County’s website no later than  
9:00 a.m. on the third working day prior to the meeting.  

8. Upon request, the Board provides at no charge at least one copy of the  
agenda for its public meetings, any proposed resolution which will be discussed at the public  
meeting, and any other supporting materials provided to the Board for an item on the agenda,  
except for certain confidential materials and materials pertaining to closed meetings, as provided  
by law.  

9. A copy of the notice so given of the meeting of the Board held on March  
3, 2009, is attached to this certificate as Exhibit “A”.  

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the  
County this March __, 2009.  

(SEAL)  

County Clerk
EXHIBIT “A”

(Attach copy of posted agenda for the meeting of March 3, 2009)
EXHIBIT “B”

(Attach Affidavit of Publication of Ordinance After Adoption)