

APN: 1318-22-002-003
(formerly APN 0007-100-01)
(now divided into: 1318-22-002-103
and 1318-22-002-104)

Douglas County - NV
Werner Christen - Recorder
Page: 1 Of 16 Fee: 29.00
BK-0805 PG- 1751 RPTT: 0.00



When Recorded, Mail to:

↓ Steven C. Kenninger
QMO, LLC
P.O. Box 129
Zephyr Cove, Nevada 89448

**MEMORANDUM OF AGREEMENT AND IRREVOCABLE SPECIAL POWER-OF-ATTORNEY
REGARDING TRANSFER OF 20 RESIDENTIAL UNITS OF USE**

This Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding Transfer of 20 Residential Units of Use ("Memorandum and Irrevocable Special Power-of-Attorney") is made as of this 20th day of July 2005 ("Effective Date"), by and between FALCON CAPITAL, LLC, a Wyoming limited liability company ("Seller"), QMO, LLC, a Nevada limited liability company, or its assignee ("Purchaser"), and Meadow Brook Associates, LP, a Nevada limited partnership ("Meadow Brook").

RECITALS

A. On or about July 20, 2005, Seller and Purchaser entered into an Agreement for the Purchase and Sale of Residential Units and Escrow Instructions (the "Agreement") with respect to the sale and purchase of 20 existing residential units of use (herein "Purchaser's ERUs") as defined in the Tahoe Regional Planning Agency ("TRPA") Code of Ordinances. The Agreement contains certain Recitals with respect to the history of the Purchaser's ERUs and other development entitlements which were or are appurtenant to the Sending Parcel (defined below), which is more particularly described in **Exhibit "1"** hereto. Some of such Recitals are summarized below:

- (1) On or about October 3, 2001 (the "Sending Parcel Acquisition Date"), Seller acquired title to that certain 4.28 acres of real property located in Douglas County, State of Nevada, which real property is more commonly known as 134 Kahle Avenue, Stateline, Nevada-Assessor's Inactive Parcel Number 1318-22-002-003 (formerly APN 0007-100-01) (the "Sending Parcel").
- (2) As of the Sending Parcel Acquisition Date, appurtenant to the Sending Parcel were One Hundred Thirteen Thousand Seven Hundred Fifty-Four (113,754) square feet of land coverage, along with all other development entitlements, including, without limitation, any and all Development Entitlements, building allocations, Residential Units of Use ("Residential Units"), Tourist Accommodation Units ("TAUs"), commercial floor area, and land coverage, (collectively, the "Development Entitlements") as recognized by either the Tahoe Regional Planning Agency

("TRPA") and as defined in the TRPA Code of Ordinances (as amended and modified from time to time, the "Code") or by any other regulatory agency having jurisdiction over the Sending Parcel (collectively, the "Original Development Entitlements"). The Code provides for, among other things, the conversion and/or transfer of such Development Entitlements to other parcels, subject to certain conditions and limitation contained in the Code.

- (3) During the period from and after the Sending Parcel Acquisition Date through November 5, 2003 (the "Sending Parcel Sale Date"), in a series of transactions, Seller transferred, sold, used, granted, retained, repurchased and/or reacquired portions of the Original Development Entitlements appurtenant to the Sending Parcel.
- (4) As of the Sending Parcel Sale Date, Seller reserved to itself all of the remaining Original Development Entitlements still owned by it from the later sale and conveyance of the Sending Parcel to Meadow Brook, except for Fifty-One Thousand Five Hundred Five (51,505) square feet of the land coverage appurtenant to the Sending Parcel (the "Transferred Coverage"). Collectively, the Original Development Entitlements less the Transferred Coverage are sometimes hereinafter referred to as the "Reserved Development Entitlements". Such reservation of the Reserved Development Entitlements by Seller is evidenced by, among other things, an agreement made as of November 5, 2003 between Seller and Meadow Brook (the "Reserved Development Entitlements Agreement").
- (5) On the Sending Parcel Sale Date, Seller sold and conveyed the Sending Parcel and the Transferred Coverage to Meadow Brook, and Seller reserved to itself from the sale and conveyance of the Sending Parcel to Meadow Brook all of the Reserved Developments Entitlements.
- (6) On or about November 7, 2003, Meadow Brook and Seller entered into an agreement entitled "Irrevocable Power-of-Attorney Regarding Transfer of Development Entitlements" in which Meadow Brook, consistent with the Reserved Development Entitlements Agreement, appointed Falcon as its irrevocable agent and attorney-in-fact for the limited purposed of transferring all or any potion of the Reserved Development Entitlements from the Sending Parcel to an appropriate receiving parcel(s) designated by Falcon (and/or its assignee(s)) and approved by TRPA ("the Falcon Power-of-Attorney"). Other than the Transferred Coverage, Meadow Brook has no right, title or interest in or to any of either the Original Development Entitlements or the Reserved Development Entitlements.
- (7) By a Parcel Map for Meadow Brook recorded on November 12, 2004 in the Official Records of Douglas County, Nevada, File No. 629016, Book 1104, Page 5494, (the "Revised Parcel Map for the Sending Parcel"), Meadow Brook subdivided the Sending Parcel (Nevada-Assessor's Inactive Parcel Number 1318-22-002-003 (formerly APN 07-100-01)) into two separate legal parcels consisting of a 1.68 acre parcel of real property commonly known as 134 Kahle Avenue and more particularly described as Parcel 1 of the Revised Parcel Map for the Sending Parcel (Nevada-Assessor's active Parcel Number 1318-22-002-103) (the "Affordable

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Housing Parcel") and of a 2.59 acre parcel of real property and more particularly described as Parcel 2 of the Revised Parcel Map for the Sending Parcel (Nevada-Assessor's active Parcel Number 1318-22-002-104) (the "Douglas County Parcel"). The Revised Parcel Map for the Sending Parcel depicting the 1.68 acre Affordable Housing Parcel and the 2.59 acre Douglas County Parcel is attached as Exhibit "G" to the Agreement.

- (8) Meadow Brook has constructed thirty (30) affordable housing rental units on the Affordable Housing Parcel.
- (9) By Deed dated February 15, 2005 and recorded on June 2, 2005 in the office of the County Recorder of Douglas County, Nevada, Document No. 0645914 of official records (the "Douglas County Deed"), Meadow Brook granted and conveyed to Douglas County, a political subdivision of the State of Nevada ("Douglas County"), all of Meadow Brook's interest in the Douglas County Parcel, subject to the express conditions that (i) no land coverage, development rights, residential units, tourist accommodation units, commercial floor area, or any other development rights or entitlement, whether existing, banked or potential (i.e., the remaining Reserved Development Entitlements which Falcon had not yet transferred off the Sending Parcel) was being conveyed by such deed to either Douglas County or to the Douglas County Parcel and (ii) Meadow Brook was expressly reserving to itself (or its assignee) all of such remaining Reserved Development Entitlements.
- (10) From and after the Sending Parcel Sale Date, in a series of transactions, Seller has transferred, sold, used, granted, retained, repurchased and/or reacquired portions of the Reserved Development Entitlements appurtenant to the Sending Parcel.
- (11) Seller is the sole legal and equitable owner of twenty existing Residential Units of Use (as defined in the Code) appurtenant to the Sending Parcel (the "Purchaser's ERUs") (which twenty existing Residential Units of Use constitute Purchaser's ERUs which Purchaser is acquiring pursuant to the Agreement), and Seller has the legal right and authority to enter into and perform the terms of the Agreement).

B. Seller, Purchaser and Meadow Brook have executed this Memorandum and Irrevocable Special Power-of-Arrowright for the limited purposes of:

- (1) Memorializing of record the close of the sale of Purchaser's ERUs to Purchaser and for the purpose of affording constructive notice of such sale to all subsequent purchasers and encumbrancers;
- (2) Granting to Purchaser an Irrevocable Special Power-of -Arrowright which is set forth below relating to the transfer of the Purchaser's ERUS from the Sending Parcel to one or more receiving parcels designated by Purchaser, or its assignees, and approved by TRPA; and
- (3) Providing constructive notice that each successive grantee of the Sending Parcel is required to execute and cause to be recorded concurrently with the deed conveying



title to the Sending Parcel, or any portion thereof, an agreement in the form of the Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Units of Use and Assumption of Obligations Under Agreement in favor of Purchaser, or its assignees, ("Grantee Special Power of Attorney") in the form attached hereto as **Exhibit "2"** and by this reference incorporated herein.

NOW, THEREFORE, Seller, Purchaser and Meadow Brook hereby memorialize the Agreement of record and Seller and Meadow Brook hereby grant to Purchaser, or its nominees, an irrevocable special power of attorney as follows:

1. Memorandum of Agreement. This Memorandum and Irrevocable Special Power-of-Attorney is recorded for the purpose of serving as constructive notice to all subsequent purchasers and encumbrancers that: (a) on or about July 1, 2005, Purchaser bought from Seller, Purchaser's ERUs described on Recital A hereof which are banked on the Sending Parcel owned by Meadow Brook, (b) Purchaser is the owner of the Purchaser's ERUs and that neither Seller nor Meadow Brook has any right, title or interest in, or claim or lien on, Purchaser's ERUs and (c) Purchaser is entitled to bank Purchaser's ERUs on the Sending Parcel pursuant to the terms of the Agreement for a period of ten (10) years ending on July 20, 2015. Seller has agreed, among other things, not to use, transfer, encumber or limit the transferability of Purchaser's ERUs in any manner and to fully cooperate to facilitate the transfer of Purchaser's ERUs off of the Sending Parcel as specified by Purchaser and approved by TRPA. This Memorandum and Irrevocable Special Power-of-Attorney will further serve as constructive notice to all subsequent purchasers and encumbrancers that each successive grantee of the Sending Parcel by accepting title to all or any portion of the Sending Parcel, is required to execute and record a Grantee Special Power of Attorney, which obligation is a covenant running with the land binding the present and future owners of Sending Parcel and every portion of the Sending Parcel and interest therein in favor of Purchaser and its assignee. In the event any such grantee fails to execute and record such Grantee Special Power of Attorney, then such grantee, by acceptance of its deed to the Sending Parcel, shall be deemed to have granted the powers set forth in the Grantee Special Power of Attorney to Purchaser or its assignees and shall be deemed to have assumed the obligations of Meadow Brook under the Agreement as the owner of the Sending Parcel known as the Affordable Housing Parcel and identified as such on **Exhibit "1"** hereto.

2. Irrevocable Special Power-of-Attorney. Seller and Meadow Brook authorize, empower and appoint Purchaser, and/or its assignee(s), or a person or persons later designated by Purchaser, and/or its assignee(s), as their attorney(s)-in-fact to act as the attorney-in-fact and agent (the "Agent") for Seller and Meadow Brook, as the Agent of the legal owner of the Purchaser's ERUs (Seller) and as the legal owner of that portion of the Sending Parcel known as the Affordable Housing Parcel (Meadow Brook), respectively, for the limited purposes of executing and recording all documentation and taking all action(s), from time to time, necessary to transfer (i) any or all of Purchaser's ERUs to an appropriate receiving parcel or parcels later designated by Purchaser (and/or its assignee(s)) and approved by TRPA, and/or (ii) to Purchaser's third party assignee(s) any or all of Purchaser's rights, authority and remedies under the Agreement to later transfer any or all of Purchaser's ERUs to appropriate receiving parcel(s) to be later designated by Purchaser's third party assignee(s) and approved by TRPA, including but not limited to Agent being irrevocably authorized, empowered and appointed to do each and all of the following acts:

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MemorandumofAgreementandIrrevocableSpecialPowerofAttorneyRegardingTransferof20ExistingResidentialUnitsofUse

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- (a) Executing and acknowledging as the attorney-in-fact of the owner of the Sending Parcel (i) the TRPA Project Review Application Form(s); (ii) any and all other and/or further TRPA required applications, forms, deeds, deed restrictions and/or other declarations of covenants, conditions, and restrictions or documents; and/or (iii) any permits or approvals issued by TRPA, which are necessary to apply for, to obtain approval for and to transfer any or all of Purchaser's ERUs from the Sending Parcel to an appropriate receiving parcel or parcels as approved by TRPA; and
- (b) Recording on the Sending Parcel as the attorney-in-fact of the owner of the Sending Parcel all TRPA required deeds, deed restrictions and other declarations of covenants, conditions, and restrictions pertaining to the transfer of any or all of Purchaser's ERUs from the Sending Parcel to an appropriate receiving parcel or parcels as approved by TRPA.

(The foregoing authorized actions are sometimes collectively referred to herein as the "Authorized TRPA Designated Unit Transfer Actions and Documentation").


Seller and Meadow Brook hereby grant to Purchaser (and/or its assignee(s)) or its Agent the irrevocable power of attorney coupled with an interest to perform and execute (A) all Authorized TRPA Designated Unit Transfer Actions and Documentation and (B) all post-closing covenants and obligations of Seller and Meadow Brook under the Agreement with respect to the future transfer of Purchaser's ERUs from the Sending Parcel to appropriate receiving parcel(s) as approved by TRPA.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding Transfer of 20 Residential Units of use effective as of date first set forth above.

Seller:

Falcon Capital, LLC, a Wyoming limited liability company

By:



G. Randy Lane, Managing Member

Purchaser:

QMO, LLC, a Nevada limited liability company

By: Steven C. Kenninger Living Trust,
Managing Member

By: 
Steven C. Kenninger, Trustee

Meadow Brook:

Meadow Brook Associates, LP,
a Nevada limited partnership

By: G R Lane Lake Vista Apartments, LLC,
a _____ limited liability
company, General Partner

By: _____

Name: _____

Title: _____



Purchaser:

QMO, LLC, a Nevada limited liability company

By: Steven C. Kenninger Living Trust,
Managing Member

By: _____
Steven C. Kenninger, Trustee

Meadow Brook:

Meadow Brook Associates, LP,
a Nevada limited partnership

By: ER Lane Lake Vista Apartments, LLC,
a Nevada limited liability
company, General Partner

By: ER Lane

Name: E.R. LANE

Title: Managing Member



STATE OF _____)
) ss.
County of _____)

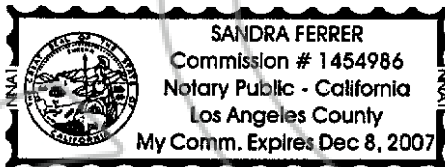
This instrument was acknowledged before me on _____, 2005, by G. Randy Lane, as Managing Member of Falcon Capital, LLC, a Wyoming limited liability company.

Notary Public

My Commission Expires: _____

STATE OF CA)
) ss.
County of LA)

This instrument was acknowledged before me on July 26th, 2005, by Steven C. Kenninger, as Trustee of the Steven C. Kenninger Living Trust, the Managing Member of QMO, LLC, a Nevada limited liability company.



Sandra Ferrer
Notary Public

My Commission Expires: 12/8/07

STATE OF Nevada)
) ss.
County of Douglas)

This instrument was acknowledged before me on July 26, 2005, by G. Randy Lane, as Managing Member of Falcon Capital, LLC, a Wyoming limited liability company.

Linda L. Hardman
Notary Public

My Commission Expires: 12/1/08



STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2005, by Steven C. Kenninger, as Trustee of the Steven C. Kenninger Living Trust, the Managing Member of QMO, LLC, a Nevada limited liability company.

Notary Public

My Commission Expires: _____



STATE OF Nevada)
) ss.
County of Douglas)

This instrument was acknowledged before me on July 26, 2005, by Randy Lane as Managing Member of G R Lane Lake Vista Apartments, LLC, a Nevada limited liability company, the General Partner of Meadow Brook Associates, LP, a Nevada limited liability company.



Linda L. Hardman
Notary Public

My Commission Expires: 12/1/08

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Memorandum of Agreement and Irrevocable Special Power of Attorney Regarding Transfer of 20 Existing Residential Units of Use

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Exhibit "1"
Sending Parcel Legal Description

All of that certain real property located in the County of Douglas, State of Nevada, more particularly described as follows:

Being a portion of the Southeast ¼ of Section 22, Township 13 North, Range 18 East, M.D.B.&M., further described as follows:

Parcel 1 ("Affordable Housing Parcel")

Parcel 1 as set forth on Parcel Map LDA 03-088 for Meadow Brook Associates, L.P. filed for record in the Office of the County Recorder of Douglas County, State of Nevada, on November 12, 2004, Book 1104, Page 5494, Document No. 629016.

Parcel 2 ("Douglas County Parcel")

Parcel 2 as set forth on Parcel Map LDA 03-088 for Meadow Brook Associates, L.P. filed for record in the Office of the County Recorder of Douglas County, State of Nevada, on November 12, 2004, Book 1104, Page 5494, Document No. 629016.

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7/25/05



Exhibit "2"
Irrevocable Special Power-of-Attorney
(Grantee Form)

(See attached.)



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7/25/05



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(formerly APN 0007-100-01)
(now divided into: 1318-22-002-103
and 1318-22-002-104)

When Recorded, Mail to:

Steven C. Kenninger
QMO, LLC
P.O. Box 129
Zephyr Cove, Nevada 89448

**IRREVOCABLE SPECIAL POWER-OF-ATTORNEY
REGARDING TRANSFER OF RESIDENTIAL UNITS OF USE
AND ASSUMPTION OF OBLIGATIONS UNDER AGREEMENT**

(I) (We), _____, a
_____ and _____, a
_____, do hereby make, constitute and appoint QMO, LLC, a
Delaware limited liability company, or its assignees (collectively "QMO"), to be (my)(our) true
and lawful attorney-in-fact for (me)(us) and in (my)(our) name(s), place and stead, for the
following limited purposes relating to the transfer of Existing Residential Units of Use (as
defined in the Tahoe Regional Planning Agency ("TRPA") Code of Ordinances and herein
referred to as "Purchaser's ERUs"), which Purchaser's ERUs are identified in that certain
Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding
Residential Units of Use ("Memorandum and Irrevocable Special Power-of-Attorney")
recorded on _____, 2005 in the office of the County Recorder of Douglas
County, Nevada, as document no. _____, official records which Purchaser's ERUs are
appurtenant to that certain real property situate in Douglas County, Nevada, which is
described in **Exhibit "A"** hereto ("Sending Parcel"): (a) executing and submitting any and all
applications to the TRPA for the transfer of Purchaser's ERUs; (b) submitting to TRPA such
other applications and documents required by TRPA to cause such transfer; (c) transferring
any portion of Purchaser's ERUs to one or more receiving parcels designated by QMO or its
assignees and approved by TRPA; and (d) executing all declarations of covenants,
conditions and restrictions in a form approved by TRPA relating to the of Purchaser's ERUs.

This power-of-attorney includes, but is not limited to, the power to do any or all of the
following acts:

- (1) Executing and acknowledging as the attorney-in-fact of the owner of the Sending
Parcel (i) the TRPA Project Review Application Form(s); (ii) any and all other
and/or further TRPA required applications, forms, deeds, deed restrictions and/or
other declarations of covenants, conditions and restrictions or documents; and/or

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(ii) any and all other and/or further TRPA required applications, forms, deeds, deed restrictions and/or other declarations of covenants, conditions and restrictions or documents; and/or (iii) any permits or approvals issued by TRPA, which are necessary to apply for, to obtain approval for and to transfer any and all of Purchaser's ERUs from the Sending Parcel to an appropriate receiving parcel or parcels as approved by TRPA; and

(2) Recording on the Sending Parcel as the attorney-in-fact of the owner of the Sending Parcel all TRPA required deeds, deed restrictions and other declarations of covenants, conditions and restrictions pertaining to the transfer of any or all of Purchaser's ERUs from the Sending Parcel to an appropriate receiving parcel or parcels as approved by TRPA.

(I) (We) do further hereby ratify and confirm whatever (my)(our) attorney-in-fact shall lawfully do or cause to be done by virtue of the authority granted herein.

The undersigned hereby assumes and agrees to perform all obligations of Meadow Brook Associates, LP, a Nevada limited partnership, under the Agreement (as defined to in the Memorandum and Irrevocable Special Power-of-Attorney). The undersigned agrees not to encumber any of Purchaser's ERUs and to fully cooperate with QMO or its assignees to facilitate the transfer of Purchaser's ERUs from the Sending Parcel.

This Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Units of Use and Assumption of Obligations Under Agreement ("Grantee Special Power of Attorney") is coupled with an interest and is irrevocable. This Grantee Special Power of Attorney shall expire on the earlier of (i) the date of transfer of all of Purchaser's ERUs from the Sending Parcel or (ii) July 1, 2015.

This Grantee Special Power of Attorney may be executed in one or more counterparts, each of which will constitute one original document.

Dated: _____, 2005 _____

Print Name: _____

Dated: _____, 2005 _____

Print Name: _____



STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2005, by
_____.

Notary Public

My Commission Expires: _____

STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2005, by
_____.

Notary Public

My Commission Expires: _____



Exhibit "A"
Legal Description of Sending Parcel

All of that certain real property located in the County of Douglas, State of Nevada, more particularly described as follows:

Being a portion of the Southeast $\frac{1}{4}$ of Section 22, Township 13 North, Range 18 East, M.D.B.&M., further described as follows:

Parcel 1 ("Affordable Housing Parcel")

Parcel 1 as set forth on Parcel Map LDA 03-088 for Meadow Brook Associates, L.P. filed for record in the Office of the County Recorder of Douglas County, State of Nevada, on November 12, 2004, Book 1104, Page 5494, Document No. 629016.

Parcel 2 ("Douglas County Parcel")

Parcel 2 as set forth on Parcel Map LDA 03-088 for Meadow Brook Associates, L.P. filed for record in the Office of the County Recorder of Douglas County, State of Nevada, on November 12, 2004, Book 1104, Page 5494, Document No. 629016.

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7/25/05

