CITY COUNCIL STAFF REPORT

DATE: September 7, 2011 UNFINISHED BUSINESS

SUBJECT: APPROVE A PROJECT FINANCING AGREEMENT AND ASSOCIATED AGREEMENTS BETWEEN THE CITY OF PALM SPRINGS AND PALM SPRINGS PROMENADE, LLC, FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE, COMMONLY KNOWN AS THE DESERT FASHION PLAZA

FROM: David H. Ready, City Manager

BY: Community and Economic Development

SUMMARY

The City Council will consider approving a Project Financing Agreement for the redevelopment of the Desert Fashion Plaza. The proposed Agreement is the result of recent negotiations with Palm Springs Promenade, LLC (the "Developer") and City staff for the redevelopment of the property and was originally introduced in draft form at the July 20, 2011 City Council meeting.

Pursuant to the proposed Agreement, the City would acquire the public areas and the parking structure, which will assist the Developer to provide financing for a portion of the development project. The Developer would be responsible for the completion of the private improvements at the project. In addition, the City would undertake the construction of all public streets and infrastructure on the site. The acquired properties include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) two possible "museum expansion" sites on the west side of the property; (4) the improved streets created by the project described as the Museum Street, Andreas Road and the Belardo extension; and (5) new public restrooms located within the project.

As of September 1, 2011, there were a few remaining issues that staff and the Developer are discussing. Once these issues are resolved, appropriately revised documents, if any, will be presented to the Council.

ITEM NO. 4A

RECOMMENDATION:

1. Adopt Resolution No. ___, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A PROJECT FINANCING AGREEMENT AND ASSOCIATED AGREEMENTS WITH PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE, COMMONLY KNOWN AS THE DESERT FASHION PLAZA."

STAFF ANALYSIS:

The purpose of this Agreement is to facilitate the redevelopment of the Desert Fashion Plaza located at the center of Downtown Palm Springs. The City Council received a lengthy staff report related to the Project Financing Agreement for its July 20, 2011 meeting, which is attached to this staff report for reference. The original staff report contained a history of the property, a description of the Museum Market Plaza Specific Plan and the Revitalization Plan project, a description of the basic business terms of this agreement, examples of other communities' participation in public-private partnerships related to downtowns, and a discussion of the eminent domain process the City/Agency had recently considered.

At the July 20 meeting, there were several aspects of the Project Financing Agreement that were not fully articulated, so it was Council's desire to allow the Council Subcommittee and staff to work through August to finalize those terms with the Developer, Wessman Development. Those items included the legal descriptions of the parcels to be acquired by the City and the easement provisions related to their use, as well as certain default provisions in the Agreement in the case the Developer did not proceed or fails to complete the project.

Easement and Legal Description of Parcels

An Easement Agreement was created to establish easements and other rights and liabilities of the parties with respect to use, operation, maintenance and repair of the Existing Parking Structure and Public Streets, and agree on certain other matters. It describes the roles of the two parties in the cooperative redevelopment of the project. The parcel numbers below are tied to the legal description of the parcels included.

As of the effective date of the Agreement, the Developer will (i) within Parcel 1, refurbish exterior commercial building improvements, (ii) within Parcels 2 and 3, demolish existing commercial building improvements and replace them with new commercial building improvements, (iii) within Parcel 6, demolish existing commercial building improvements and replace them with a new multiplex theater, (iv) within Parcel 4, temporarily leave the surface as existing parking pending future vertical development, (v) within Parcel 5, demolish any existing commercial building improvements and temporarily leave surface pad areas in a level, graded condition (upon which the City could install and maintain temporary landscaping pending future vertical development), and (vi) within Parcel 7,

demolish any existing commercial building improvements and leave surface concrete areas in a broom clean condition (which City could use for temporary parking). Upon completion of the Revitalization Plan, refurbished and/or new core and shell building improvements will be in place and ready to receive tenant improvements as commercial leasing occurs on Parcels 1, 2 and 3; a new multiplex theater will be in place and ready for tenant furniture, fixtures and equipment on Parcel 6; existing parking will temporarily remain on Parcel 4; temporary landscaping could be in place on Parcel 5; and temporary parking could be in place on Parcel 7.

Event of Default

One of the concerns of the City Council was the remedy available to the City in the event the Developer did not proceed or fails to complete the project. As part of the security for the City under the Project Financing Agreement, the City will secure a Performance Deed of Trust with a Trustee (Title Company) against the Desert Fashion Plaza property, to be available if the Developer fails to proceed with constructing the project. Upon an Event of Default under the Deed of Trust, such as a work stoppage, the City may declare the balance due under the Deed of Trust, to be immediately due and payable. After a period of time for the Developer to cure the default as is required by law following the recordation of the notice of default, and a proper notice of sale as required by law, the Trustee shall sell the Property, either as a whole or in separate parcels, at public auction to the highest bidder. The City would be entitled to deposit the Deed of Trust in the amount of the balance due as its bid for the property. This security helps ensure that the City's investment in the property results in the completion of the Revitalization Plan project: if it does not, the City would likely be the owner of the property and would be able to control the ultimate disposition of the property and the project.

This mechanism is the best way to ensure the completion of the project in a timely way.

CEQA Compliance

In April, 2008, the Developer submitted to the City the Museum Market Plaza plan, which included a central public plaza with condos, offices, retail and entertainment. Because the project proposed buildings which could reach 79 feet, the Developer was required to process a Specific Plan for the area which amended the City's General Plan to allow taller buildings.

Beginning in late 2008, Wessman Development, the City, and the Redevelopment Agency embarked upon the creation of a Specific Plan for the properties. The Specific Plan allowed the developer flexibility in proposing land uses which would be market-driven, with up to 955 condos, 400,000 square feet of retail and 620 hotel rooms, in a formula that traded retail square footage for hotel rooms or condos, and vice versa. For example, if there were the full 620 hotel rooms, there would be fewer condos and retail square footage. It also contained and allowed a "Renovation Plan," which was a minor remodel of the mall property.

In December 2009, the City Council adopted the Museum Market Plaza Specific Plan and the Redevelopment Agency adopted the Specific Plan as the Design for Development for the Redevelopment Area Plan. In approving the Specific Plan and the Design for Development, the Council and Agency expressed their belief that the adoption of the Specific Plan and Design for Development, with its new zoning and organization of the properties, accented by a new street from the Palm Springs Art Museum through to Indian Canyon Drive and a potential expansion of the Palm Springs Art Museum and the creation of new public spaces, would provide a template for the redevelopment of the property with private development.

An EIR for the plan was certified at the same time. A much more modest Renovation Plan was also included in the approval of the Specific Plan as well. The Specific Plan shows a vehicular street through to the museum.

EIR Certification

Concurrently with approval of the Specific Plan, the Council approved and adopted Resolution 22625, which certified an Environmental Impact Report for the Specific Plan. Such Resolution included, without limitation, the making of amendments to the General Plan and Zoning Ordinance of the City, the making of certain findings relative to environmental effects identified in the EIR, the adoption of a Statement of Overriding Considerations, and the adoption of a Mitigation Monitoring Plan and Reporting Plan. The Resolution also included the incorporation of the Renovation Plan as an option, i.e., a potential "phase one" for remodeling the DFP Area.

Substantial Conformance of Revitalization Plan

The Project substantially conforms to the Palm Springs General Plan, specifically the adopted Museum Market Plaza Specific Plan, because the proposed Revitalization Plan meets both the guiding principles and the development standards and guidelines of the Specific Plan through a mix of retail commercial, resort hotel and residential uses on a grid of pedestrian-oriented streets and open spaces that together provide a fully functioning Downtown core that integrates well with surrounding streets and land uses.

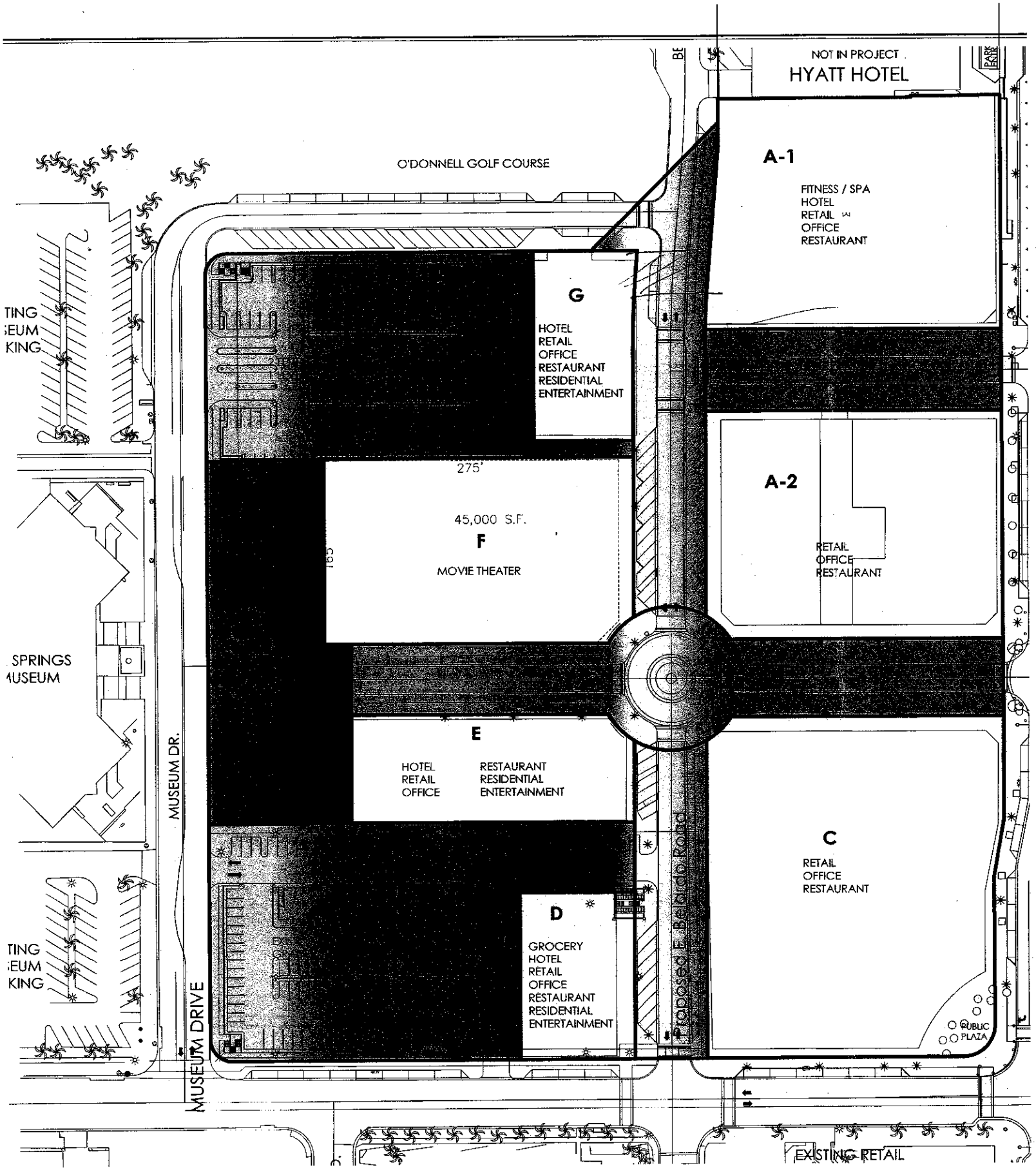
John Raymond, Director
Community and Economic Development

Tom Wilson
Assistant City Manager

David H. Ready
City Manager

Attachments:

1. Resolution
2. Project Financing Agreement
3. Performance Trust Deed
4. Legal Descriptions and Parcel Map Lots
5. July 20, 2011 Staff Report



ANBORN A/E INC.
ALLEN M. SANBORN
ARCHITECT
71-780 SAN JACINTO DR.
SUITE "E-1"
RANCHO MIRAGE, CA. 92270
TEL (760) 423-0600
FAX (760) 423-0603

LICENSED ARCHITECT ALLEN M. SANBORN NO. C-16091 EXP. 12/31/2011 STATE OF CALIFORNIA

PROJECT TITLE:

PALM SPRINGS QUARTER
Downtown Revitalization Plan
Wessman Development

PALM SPRINGS, CALIFORNIA TEL (760) 325-3050

NOTE: THIS IS A CONCEPTUAL SITE LAYOUT PLA
DESIGNATING STREETS, PARKING, SIDEWALKS AN
AREAS AND ACTUAL BUILDING FOOTPRINTS WILL
BASED ON FUTURE ARCHTECTURAL PLANS.

65-2

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A PROJECT FINANCING AGREEMENT WITH PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE, COMMONLY KNOWN AS THE DESERT FASHION PLAZA

- - - - - - -

WHEREAS, the Property currently known as the Desert Fashion Plaza was constructed on the site of the former Desert Inn in 1966 and was originally called the Desert Inn Fashion Plaza; and

WHEREAS, in 1984 the City of Palm Springs and the Community Redevelopment Agency assisted the Edward J. DeBartolo Company renovate and expand the mall, including constructing a new store for Saks Fifth Avenue and developing an expanded I. Magnin space; and

WHEREAS, due to its lack of retail success, the Desert Fashion Plaza went into foreclosure in late 1996, with the total defaulted loans at $51,698,096; and

WHEREAS, in early 1998, AZ Partners purchased the property for $13.5 million and proposed a $35-million redevelopment of the Desert Fashion Plaza; and

WHEREAS, in 1999 lender Excel Legacy Corp., terminated AZ Partners and proposed its own $64-million renovation of the Desert Fashion Plaza; and

WHEREAS, in mid-2000, Excel opted to sell the mall instead of developing it and in late 2001 Wessman Development Company (the "Developer") acquired the Desert Fashion Plaza from Excel; and

WHEREAS, a City Council Subcommittee was formed in 2004, to work with the Developer, and as part of its collaboration the City undertook demographic and movie theater market analysis and City officials participated in tenant meetings and worked on structuring a financial assistance package for the redevelopment of the property; and

WHEREAS, comprehensive redevelopment plans were submitted by the Developer in April 2007, called Palm Grove; and

WHEREAS, in April, 2008, the Developer submitted the Museum Market Plaza plan, which replaced the Palm Grove plan; and

WHEREAS, on May 21, 2008, the City Council initiated a Specific Plan review process and directed staff to report on the conformance of the draft Museum Market Plaza Specific Plan with the Palm Springs General Plan, Downtown Design Guidelines and Palm Springs Zoning Code; and

WHEREAS, on November 18, 2009, the City Council certified an Environmental Impact Report, adopted a Statement of Overriding Consideration and Findings of Fact, and adopted the Museum Market Plaza Specific Plan ("Specific Plan"), including Amendments to the Palm Springs General Plan and the Palm Springs Zoning Code; and

WHEREAS, on December 2, 2009, the City adopted the Specific Plan as Ordinance 1764, and the Redevelopment Agency adopted the Specific Plan as the Design for Development for the Redevelopment Area Plan. In approving the Specific Plan and the Design for Development, the Council and Agency expressed their belief that the adoption of the Specific Plan and Design for Development would provide a template for the redevelopment of the property with private development; and

WHEREAS, in January, 2010, the City and Developer began to negotiate a Development Planning Agreement ("DPA") that would provide essentially a set of mutually agreeable assumptions, timelines, and general requirements for the negotiation of both a Development Agreement and Owner's Participation Agreement for the redevelopment of the Desert Fashion Plaza; such efforts were not fruitful until February 2011; and

On August 9, 2010, the City Attorney's Office, on behalf of the Redevelopment Agency, advised the Developer that the Agency was unwilling to wait indefinitely for the Developer to propose and demonstrate financial capacity to redevelop the Desert Fashion Plaza; and

On September 22, 2010, the City Council and Agency (1) authorized the completion of an appraisal of the Property, (2) solicited a Request for Proposals, and (3) directed staff to identify potential alternatives for financing any Agency or City participation in any approved project or the purchase of the Property; and

WHEREAS, in December, 2010, the Agency Board authorized the Executive Director to make an offer to purchase the entire property, beginning a sequence of events that could have lead to an eminent domain action on the part of the Agency; and

WHEREAS, the parties acknowledge that redevelopment of the DFP Area pursuant to the Specific Plan is critical to restoring economic vitality to downtown Palm Springs, and that successful redevelopment will require public-private participation as provided and contemplated herein.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Palm Springs, as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2. The Project Financing Agreement and associated agreements by and between the City of Palm Springs and Palm Springs Promenade, LLC, attached and incorporated herein by reference, are hereby approved.

SECTION 3. Project Description. Under this Project Financing Agreement the Developer shall construct Phase I of the Revitalization Plan project, which includes the demolition of most of the retail properties of the mall, the development of new retail buildings on Palm Canyon Drive, a new Museum Way from Palm Canyon Drive to the Art Museum, a new Andreas Road from Palm Canyon Drive to Belardo Road, a reconnection of Belardo Road, new public spaces, and new movie theaters. The Project Description for the Agreement covers Phase I of the Revitalization Plan, which is the portion of the project covered in the feasibility analysis but does not include the future buildings on Blocks D, E, or G. Later phases of the Project may occur years later.

A significant part of the structure under the Agreement shall be the acquisition of certain real property at the site. These include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) the two possible "museum expansion" sites; (4) the

improved streets created by the project described as the Museum Street and the Belardo extension; and (5) new public restrooms. The City's development cost would include the cost of constructing public streets and the refurbishing of the underground parking structure.

SECTION 4. Existing Site. The existing Desert Fashion Plaza is spread over 13 acres, located between North Palm Canyon Drive, Tahquitz Canyon Way, Museum Drive, and Belardo Road. The current development has more than 288,000 square feet of enclosed retail and circulation space, including 115,000 square feet of three former anchor tenants — Saks Fifth Avenue (50,000 square feet), I. Magnin (40,000 square feet), and Bank of America (25,000 square feet).

SECTION 5. Street Grid. The entire street grid created by the Project and conveyed to the City will be designed with landscaping, architectural shading and decorative interlocking pavers, and no curbs, to maximize its use for events. All of the street grid will be available to be closed off for special events and public activities. It is appropriate urban public space for an urban environment.

SECTION 6. Parking. The project also includes 1,061 parking spaces (282 at-grade, 670 below-grade, and 109 above-grade). A parking garage accessed from Museum Drive is located in the site's northwest corner. An underground parking garage extends from beneath the northern portion of the property to its southwest corner. All parking structure improvements shall be undertaken by the City upon its acquisition of the property. Some reconfiguration of the parking structure shall also be necessary, in order to allow the construction of Belardo Road and the new Andreas Road on grade, as well as some new building pads on grade.

SECTION 7. Museum Parcels. The City shall acquire two parcels as potential Palm Springs Art Museum sites, located at the far western end of the project. One parcel, Block H-2, shall be restored to "original" landscaped condition, free of debris and

repainted, broken concrete repaired. The other parcel, Block H-1, shall be filled and returned to a level site condition. Under the Agreement, the City shall receive the land from the Developer and negotiate with the Museum on a separate development project.

SECTION 8. Public Restrooms. There is a provision for the creation of public restrooms within the project, which the City would operate and maintain. The Agreement contains a legal description of the restroom space which the City would purchase and construct.

SECTION 9. Terms of Project Financing Agreement. The total development cost of Phase I of the Revitalization Plan is in excess of $100 million, which includes hard and soft costs as well as property acquisition. The Agreement provides for an estimated amount of City participation, including the construction of public infrastructure and the acquisition of certain public properties described in Section 3 of this Resolution, of approximately $43 million.

SECTION 10. The City has structured the project contribution as follows:

1. The City would deposit the amount of $32 million in a project-related escrow account, under the terms described below; and

2. The City would undertake the construction of the streets and the improvement of the parking facilities, at an estimated cost of $11 million;

3. In return for its contribution toward making the Project economically feasible, the City would receive title to all of the Project's parking (surface, underground, and structure) as well as the land underneath the streets and the restroom site and building.

4. As part of the security for the City under the Project Financing Agreement, the City will secure a Performance Deed of Trust with a Trustee against the Desert Fashion

Plaza property, to be available if the Developer fails to proceed with constructing the project.

SECTION 11. Phase I of the Revitalization Plan sets a schedule for completion of the core and shell improvements (retail and office along Palm Canyon, the street infrastructure, the museum expansion sites, and the movie theaters) by December 2014.

SECTION 12. California Environmental Quality Act. Pursuant to the California Environmental Quality Act (CEQA), the City Council finds that concurrently with approval of the Specific Plan, the Council approved and adopted Resolution 22625, which certified an Environmental Impact Report for the Specific Plan. Such Resolution included, without limitation, the making of amendments to the General Plan and Zoning Ordinance of the City, the making of certain findings relative to environmental effects identified in the EIR, the adoption of a Statement of Overriding Considerations, and the adoption of a Mitigation Monitoring Plan and Reporting Plan. The Resolution also included the incorporation of the Renovation Plan as an option, i.e., a potential "phase one" for remodeling the DFP Area.

SECTION 13. General Plan Conformance. The Project substantially conforms to the Palm Springs General Plan, specifically the adopted Museum Market Plaza Specific Plan, because the proposed Revitalization Plan meets both the guiding principles and the development standards and guidelines of the Specific Plan through a mix of retail commercial, resort hotel and residential uses on a grid of pedestrian-oriented streets and open spaces that together provide a fully functioning downtown core that integrates well with surrounding streets and land uses.

SECTION 14. Zoning Code Compliance. Staff has analyzed the proposed Agreement against these findings, which require that the Agreement:

i. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

The Project Financing Agreement cites the Museum Market Plaza Specific Plan as the land use plan to be used in the development of the affected property. The Specific Plan was adopted by the City Council in November 2009 as both a General Plan and Zoning amendment for the subject sites. Consequently, the Project Financing Agreement can be determined to be consistent with the objectives, policies, general land uses and programs of the City's adopted land use documents.

ii. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

The Museum Market Plaza Specific Plan sets forth the authorized uses and prescribed regulations for the land use district in which the subject property is located. The Project Financing Agreement specifically cites this Specific Plan as the controlling land use document for future development. Consequently the proposed Agreement can be determined to be compatible with the authorized uses and prescribed land use regulations.

iii. Is in conformity with public convenience, general welfare and good land use practice;

The proposed Project Financing Agreement will provide for the implementation of the Museum Market Plaza Specific Plan and thereby provide a comprehensive redevelopment of the center of City's downtown area. The coordinated arrangement of buildings, roads, open space, parking and existing surrounding land uses is provided for in this Specific Plan in a manner which assures the long-term environmental, economic and social well being of the community. Consequently, the proposed Project Financing Agreement can be determined to be in conformity with public convenience, general welfare and good land use practice.

iv. Will not be detrimental to the health, safety and general welfare;

The Project Financing Agreement will implement both the Museum Market Plaza Specific Plan as well as the associated Mitigation Measures of the certified Environmental Impact Report that was prepared for the Specific Plan. Consequently, the proposed Project Financing Agreement can be determined to not be detrimental to the health, safety and general welfare of the community and surroundings.

v. Will not adversely affect the orderly development of property or the preservation of property values.

The Project Financing Agreement is specifically intended to provide for the orderly development of property in the downtown by establishing a means to implement the Museum Market Plaza Specific Plan. Further, the comprehensive redevelopment of the site as provided by the Agreement will provide a stable long-term development environment for the site and surroundings, thereby reducing uncertainty for the property owner, owners of adjacent properties and the community. Consequently, the proposed Project Financing Agreement can be determined to not adversely affect the orderly development of property or the preservation of property values.

SECTION 15. The City Council of the City of Palm Springs authorizes the City Manager or his designee to execute, in the name of the applicant, the required documents.

ADOPTED THIS _____day of _____, 2011.

_____
David H. Ready, City Manager

ATTEST:

_____
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on September 7, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
James Thompson, City Clerk
City of Palm Springs, California

PROJECT FINANCING AGREEMENT (Draft 08.31.2011)

THIS PROJECT FINANCING AGREEMENT ("Agreement"), dated this __ day of September, 2011, is entered into by and between the City of Palm Springs, a California municipal corporation and charter city ("City"), and Palm Springs Promenade, LLC, a California limited liability company ("Developer" or "PSP, LLC"), with reference to the following:

RECITALS

A. On December 2, 2009, the City adopted, by unanimous vote of the City Council, Ordinance 1764, which approved the Museum Market Plaza Specific Plan ("Specific Plan"). The Specific Plan covered two existing downtown commercial areas, i.e., the area commonly known as Desert Fashion Plaza ("DFP Area"), and the area commonly known as the Town and Country Center ("The Center"). This Agreement relates only to the DFP Area, which is owned by PSP LLC, and does not include The Center, including without limitation Parcels K-1 and K-2 as identified in the Specific Plan.

B. The Parties have long recognized that redevelopment of the DFP Area is critical to restoring economic vitality to downtown Palm Springs, and that successful redevelopment will, as is almost always the case with downtown areas, require public-private participation and funding.

C. In early 2011, the Mayor and City Council commenced a series of "visioning" sessions with community leaders and concerned citizens. As a result of that effort, concepts evolved and subsequent to the "visioning" sessions have been refined and finalized into a plan for the DFP Area ("Revitalization Plan"), which is depicted on the "Project Site Plan" attached hereto as Exhibit "A" and described in the "Project Description" attached hereto as Exhibit "B" (the "Project").

D. In order to evaluate economic feasibility of the Revitalization Plan, and determine the extent of required public participation, the City engaged Keyser Marston Associates, Inc. ("KMA"), a qualified and reputable public financial consultant that has worked with City on many prior occasions. At the request of City, KMA proceeded to analyze projected redevelopment costs and post redevelopment rental revenues in order to determine the extent to which public participation would be required for the Project. KMA projected that the total redevelopment project costs would be at least $100 million dollars. Using conservative but reasonable assumptions with respect to construction costs and rental revenues, KMA determined that $40 to $45 million dollars in public participation would be necessary to fund the Project.

E. Based on the foregoing, but subject to the City identifying sources of funding as provided in Section 1.A.(1)(a) below, the parties have agreed to proceed with

the Revitalization Plan. City will provide up to $43 million dollars for the City to acquire assets as referenced in this Agreement, create and refurbish public improvements as depicted on the Project Site Plan and described in the Project Description ("Public Improvements"), and fund project incentives for the completion of the Project. The Developer will create and refurbish private improvements as depicted on the Project Site Plan and described in the Project Description ("Private Improvements"). In view of the fact that private vertical development of Blocks D, E, and G will be deferred for future "phases", completion of Private Improvements as and to the extent referenced in Section 2 of the Project Description could be, and sometimes is, referred to as "Phase 1" of the Revitalization Plan. Nothing in this Agreement obligates the City to fund or contribute to any future "phases" of Private Improvements, or obligates Developer to construct any future "phases" of Private Improvements.

F. City Acquisition of Public Assets. The Revitalization Plan calls for the City to acquire certain assets ("Public Assets"), as follows:

1. Land. Land to be acquired by the City ("Land") includes (a) land located under proposed new public streets as depicted on the Project Site Plan and described in the Project Description; (b) land located below the three level parking structure at the northwest corner of the DFP Area; (c) land located below the two level parking structure at the southwest corner of the DFP Area; (d) land located below the underground parking garage that connects said three level parking structure and said two level parking structure; and (e) land shown as Blocks H-1 and H-2 on the Project Site Plan. Legal descriptions covering the Land, and each portion thereof, shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution. The Parties acknowledge that the California Subdivision Map Act allows conveyances to public agencies such as the City without the necessity of subdivision or parcel map recordation and, therefore, the parties agree that conveyances to the City per this Agreement may be made without such map recordation.

2. Parking Facilities. Existing parking facilities to be acquired and refurbished by the City and then used for free public parking ("Parking Facilities") include: the three level parking structure located at the northwest corner of the DFP Area; the two level parking structure located at the southwest corner of the DFP Area; the underground parking garage that connects said three level parking structure and said two level parking structure; parking below developed portions of the DFP Area, and all associated ramps, driveways, connection tunnel, approaches, elevators and escalators. Legal descriptions covering the Parking Facilities shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution. Such legal descriptions may include three dimensional diagrammatic plans that describe airspace areas to be acquired by the City.

AGREEMENT

1. Acquisition of Public Assets. Upon and subject to the terms and provisions of this Agreement, City shall acquire the Public Assets.

A. Acquisition Escrow. At least ten (10) days prior to the Effective Date of this Agreement, an escrow ("Acquisition Escrow") shall be opened by the Parties with a mutually agreeable and reputable escrow holder ("Escrow Holder"), and City and Developer shall each execute and deliver escrow instructions consistent with this Agreement and as reasonably requested or required by the Escrow Holder. The parties agree that escrow fees and costs of the Acquisition Escrow (and the Improvement Escrow referenced in Section 2.A. below) shall be shared equally by the parties.

(1) Contingencies to Close of Acquisition Escrow. Close of the Acquisition Escrow is subject to satisfaction of each of the following contingencies:

(a) City Funding. A first contingency to close of the Acquisition Escrow shall be the City identifying funding sources for its obligations under this Agreement. City is currently exploring potential sources of funding for this and other desired public projects. In any event, if, by December 21, 2011, City has not (i) identified funds sufficient to cover its obligations under this Agreement, or (ii) been placed in a position of being reasonably certain that such funds will promptly (within 180 days) be identified and/or reserved, then, in that event, City shall have the right, by delivery of written notice to Developer by no later than December 22, 2011 (the "Effective Date"), to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement.

(b) Condition of Title. A second contingency to close of the Acquisition Escrow shall be the conveyance to City of good and marketable title to the Public Assets, without encumbrances (except as approved by City), as evidenced by an ALTA title insurance policy (with such title endorsements as City may reasonably request or require) issued by a mutually agreeable and reputable title insurance company ("Title Company"). In this regard, the parties acknowledge that prior to the Effective Date, City will receive and review a preliminary report for an ALTA Owner's Policy for the Property, setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters affecting Seller's title to the Property ("Preliminary Report"), together with copies of all documents relating to title exceptions referred to in the Preliminary Report. Developer shall cause a survey of the Property to be prepared by a registered surveyor or professional engineer ("Survey") and shall provide a copy thereof to the City.

City shall approve or disapprove each exception shown on the Preliminary Report and each encroachment, overlap, or boundary line dispute, or any other matter that

materially and adversely affects title to the Property or that violates any law, rule, or regulation reflected on the Survey (each an "Exception") within twenty (20) days after City receives the Preliminary Report or the Survey, whichever is later. City's failure to object within the twenty (20) day period shall be deemed to be approval of the Exceptions. If any Exception is disapproved (each a "Disapproved Exception"), Developer shall, within thirty (30) days following expiration of the twenty (20) day period provided under this Section, use its best efforts to cause each Disapproved Exception to be discharged, satisfied, released, or terminated, as the case may be, of record, and in a form that is reasonably satisfactory to City and Escrow Agent, all at Developer's sole cost and expense. Developer authorizes Escrow Agent to disburse from proceeds otherwise disbursable to Developer upon Closing, the sum sufficient to discharge any Disapproved Exception that may be discharged only by the payment of money. If Developer is unable to obtain a discharge, satisfaction, release, or termination within the period specified above, City shall have the right to waive the Disapproved Exception and proceed with Closing, accepting title to the Property subject to the Disapproved Exception, or to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement.

(c) Physical Condition. A third contingency to close of the Acquisition Escrow shall be the conveyance to City of the Public Assets, in substantially the same physical condition that exists as of the Effective Date of this Agreement. In this regard, the Developer, prior to September 15, 2011, shall provide the City with full disclosure of the physical condition of the Public Assets, including without limitation all maintenance records and all studies and reports prepared on its behalf or otherwise in its possession. The parties acknowledge that prior to October 31, 2011, City and its independent consultants will perform thorough examinations of such Public Assets, and approve the existing physical condition thereof, with the understanding that such assets shall be conveyed "as is" and "with all faults" so long as the City reasonably determines that such physical condition is materially consistent with estimates of costs of creating and refurbishing Public Assets as identified in a report by Developer's consultant, PENTA, submitted to the City prior to execution of this Agreement ("Developer's Disclosure"). As of the date of execution of this Agreement, Developer's Disclosure shows total costs of creating and refurbishing Public Assets at approximately $11,000,000, of which amount $1,450,000 represents total costs of refurbishing Parking Facilities. In the event the City reasonably determines that the physical condition of the Public Assets, or any portion thereof, is materially inconsistent with the Developer's Disclosure, City shall have the right, by delivery of written notice to Developer by no later than October 31, 2011, to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement. In the event the Acquisition Escrow closes, the City shall be solely responsible for creating and refurbishing Public Improvements subject to the terms of this provision.

(d) Blocks H-1 and H-2. With respect to Block H-1 (northerly parcel east of Art Museum), the following shall apply: (i) Developer shall, at its cost and as part of its creation and refurbishment work, fill in and grade same to a reasonably level condition (and City shall provide to Developer a temporary license to go upon Block H-1 to do so); (ii) [Note: The obligations of the Developer and the City regarding the final boundaries and disposition of a portion of Block H-1 are still being negotiated as of the posting of the Agenda and await direction from City Council on 09/07/2011.] With respect to Block H-2 (southerly parcel east of Art Museum), the parties agree that it shall remain in its current condition pending future development desired by the City.

(2) Close of Acquisition Escrow. Promptly upon satisfaction of each and all of the above contingencies or upon the Effective Date, whichever event occurs last, the Acquisition Escrow shall be closed and conveyances and transfers shall occur as follows:

(a) Public Assets to City. Upon close of the Acquisition Escrow, good and marketable title without encumbrance (except as approved by City) to the Public Assets shall be conveyed to City, and City shall receive title insurance as referenced above.

(b) City Payment. Upon close of the Acquisition Escrow, the City Payment shall be transferred by Escrow Holder directly into the Improvement Escrow referenced in Section 2.A. below, from which releases will occur in increments based on periodic written authorizations from the IFC Agent referenced in Section 2.B.(2) below, solely for the creation and refurbishment of the Private Improvements.

2. Creation and Refurbishment of Public and Private Improvements. Once the Acquisition Escrow has been closed, the parties shall continue with implementation of the Revitalization Plan, and creation and refurbishment of Public Improvements and Private Improvements, in accordance with the provisions of this Agreement. As indicated in Section 1.c of the Project Description, City shall be solely responsible for creation and refurbishment of the Public Improvements, and, as indicted in Section 2.i of the Project Description, Developer shall be solely responsible for creation and refurbishment of the Private Improvements. As used herein, with respect to Public Improvements, "creation" means demolition and construction work sufficient to install and complete the new public streets referenced in the Project Description, and, with respect to Private Improvements, "creation" means demolition and construction work sufficient to install and complete top quality new buildings in Blocks A-2, C, and F, and finished pads for future vertical development in Blocks D, E, and G, as referenced in the Project Description. As used herein, with respect to Public Improvements, "refurbishment" means rehabilitation of the Parking Facilities (defined in Section F.1 above) to be acquired by the City to a top quality, clean, safe, and operable condition,

and, with respect to Private Improvements, "refurbishment" means upgrading the existing building in Block A-1 with top quality new facades, as referenced in the Project Description. The parties agree to work cooperatively together and exert commercially reasonable efforts to cause the Public Improvements and Private Improvements to be constructed and completed concurrently. Upon completion of the Public Improvements, Developer shall execute and deliver to City a written certificate or acknowledgment of completion, in form and substance reasonably satisfactory to City, and, upon completion of the Private Improvements, City shall execute and deliver to Developer a written certificate or acknowledgment of completion, in form and substance reasonably satisfactory to Developer.

A. Open Improvement Escrow. Concurrently with close of the Acquisition Escrow, a separate escrow ("Improvement Escrow") shall be opened with Escrow Holder and all funds from the Acquisition Escrow shall be deposited directly into the Improvement Escrow, and then be released, in increments, based on periodic written authorizations from the IFC Agent referenced in Section 2.B.(2) below, solely for the creation and refurbishment of the Private Improvements. The Improvement Escrow shall be administered pursuant to the terms of the "Improvement Escrow Agreement" attached hereto as Exhibit "C".

B. Schedule of Performance. With respect to the creation and refurbishment of Public Improvements and Private Improvements, Developer and City have approved and agreed to the "Schedule of Performance" attached hereto as Exhibit "D". As provided above, Developer shall be responsible for Private Improvements and City shall be responsible for Public Improvements. In this regard, the parties contemplate and have agreed to actions and procedures as follows:

(1) Demolition of Bank of America Building. Once the City funding contingency, as referenced in Section 1.A.(1)(a) above, has been satisfied, then Developer shall, at Developer's sole cost and expense, within sixty days thereafter, commence and complete demolition of the existing Bank of America building in the DFP Area. Developer shall clear the site [Note the obligations of the Developer and the City regarding the Bank of America site pending commencement of permanent improvements are still being negotiated as of the posting of the Agenda.]

(2) Selection of IFC Agent. Once the City has advised Developer that the City funding contingency has been satisfied, City and Developer shall promptly select and enter into a written contract, under terms acceptable to Developer and City, with a mutually acceptable and reputable independent fund control agent ("IFC Agent"), with general construction experience, that shall be responsible for authorizing periodic releases, in increments, of funds from the Improvement Escrow, to go solely towards creation and refurbishment of the Private Improvements.

(3) Architectural Approvals for Private Improvements. Once the IFC Agent has been engaged, Developer shall select and enter into contracts ("Consultant Agreements") with planners, architects and/or engineers ("Project Consultants") as necessary to prepare plans and designs necessary to obtain architectural approvals for the Private Improvements from the City Planning Department and City Council. All costs and expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(4) Building Permits for Private Improvements. Once architectural approvals for Private Improvements have been received, Developer shall select and enter into Consultant Agreements with Project Consultants as necessary to prepare final plans and working drawings necessary obtain building permits from the City Building Department to construct the Private Improvements. All costs and expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(5) Commencement of Private Improvements. Once building permits have been issued, Developer shall select and enter into contracts ("Construction Contracts") with construction contractors and material suppliers ("Construction Contractors") as necessary to commence creation and refurbishment of the Private Improvements. All costs and expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(6) Completion of Private Improvements. Developer shall be responsible for completion of the Private Improvements, and shall commence depositing additional private funds into the Improvement Escrow, from time to time as and when needed, to be used to complete creation and refurbishment of the Private Improvements. Prior to drawing building permits for construction of any vertical improvements, Developer shall make an initial deposit of at least $2,000,000 into the Improvement Escrow. All costs and expenses for the completion of the Private Improvements shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow. Developer shall be solely responsible for depositing additional private funds into the Improvement Escrow as necessary to complete the Private Improvements. To secure performance of such obligation, Developer shall provide to City a deed of trust ("Performance Trust Deed") in the form of Exhibit "E" attached hereto. The Performance Trust Deed shall encumber the DFP Area, and be recorded by Escrow Holder concurrently with close of the Acquisition Escrow, as referenced in Section 1.A.(2) above. The Performance Trust Deed shall be in the initial amount of $25,000,000, however, said amount (and the balance thereof) shall not bear interest and shall be reduced, from time to time, as, when and to the extent Developer makes deposits (including the $2,000,000 deposit referenced above) into the Improvement Escrow to complete the Private Improvements. The parties acknowledge and agree that said $25,000,000 amount is likely to be in excess of the amount of additional private funds that Developer may be required to deposit into the

Improvement Escrow to complete the Private Improvements. Therefore, and based upon the understanding and agreement of the parties that the purpose of said Performance Trust Deed is to secure completion of the Private Improvements, once the Private Improvements have been completed, the Performance Trust Deed shall be released and reconveyed in full, regardless of the amount of additional private funds actually deposited by Developer, or the amount of the outstanding balance then shown as due and/or owing under the Performance Trust Deed. In the event of any inconsistency between the terms of this Agreement and the terms of the Performance Trust Deed, the terms of this Agreement shall prevail. Anything in this Agreement to the contrary notwithstanding, at such time as the Private Improvements have been substantially completed by Developer, the Performance Trust Deed shall be released and reconveyed in full, regardless of the amount of the outstanding balance then shown as due and/or owing thereunder. There shall be no other monetary encumbrance or security interest of any kind on the DFP Area as of the Effective Date, nor shall any monetary encumbrance or security interest of any kind (other than mechanics lien claims as authorized by California law during the construction process) be placed on the DFP Area after the Effective Date and prior to the City's issuance of a written certificate or acknowledgment of completion of the Private Improvements as provided in Section 2 above. As used in this Agreement, "Private Improvements" do not include tenant improvements, except with respect to the multi-plex theater which will have tenant improvements and be ready to receive the theater operator's furniture, fixtures and equipment (projectors, sound equipment, seating, screens, etc.) and thus become fully operable as part of the Revitalization Plan. As noted above, at such time as the Private Improvements have been substantially completed by Developer, the Performance Trust Deed shall be released and reconveyed in full, regardless of the amount of the outstanding balance then shown as due and/or owing thereunder.

(7) Public Improvements. City shall be solely responsible for creation and refurbishment of all Public Improvements, and all costs associated therewith. In this regard, City agrees, from and after closing of the Acquisition Escrow, to promptly and diligently pursue creation and refurbishment of all Public Improvements, and to coordinate construction and all other scheduling with Developer so that the Public Improvements are completed concurrently with the Private Improvements. In view of the fact that substantial preliminary design and/or cost estimation work may have been done by Developer's civil engineer and/or PENTA prior to the Effective Date, City shall give reasonable consideration to engaging such civil engineer and/or PENTA in connection with finalizing plans and designs for the Public Improvements. Upon substantial completion of the Public Improvements, the City shall be released, except for "punchlist" items, from any and all further obligations, under this Agreement or otherwise, to create and/or refurbish Public Improvements, or any other improvements.

(8) Blocks D, E, and G. As part of completion of the Private Improvements, Developer shall (a) within Block D leave the surface area as existing

parking, (b) within Block E [will leave in a clean, gravel or decomposed granite condition or] install temporary grass landscaping, and (c) within Block G leave the surface area as existing parking and/or install temporarily grass landscaping thereon. Thereafter, with respect to the surface area of each such Block, and until construction of vertical improvements is ready to commence thereon, City shall be solely responsible for operation, maintenance and repair of same, and shall indemnify Developer from and against all claims and/or costs incurred in connection therewith. In this regard, Developer will provide City with a temporary license or easement, in form and substance reasonably acceptable to City and Developer, as necessary for City to operate, maintain, and repair each such Block, and allow public access thereon.

C. Close Improvement Escrow. Upon substantial completion of all Private Improvements, the Improvement Escrow shall be closed and Developer shall be released, except for "punchlist" items, from any and all further obligations, under this Agreement or otherwise, to create and/or refurbish Private Improvements, or any other improvements.

3. Developer Default. Anything in this Agreement to the contrary notwithstanding, the following shall apply:

A. Default by Developer – Opportunity to Cure. From the close of the Acquisition Escrow (and opening of the Improvement Escrow) until substantial completion of the Private Improvements, if Developer fails to diligently do and perform all things reasonably necessary on the part of Developer to pursue creation and refurbishment of the Private Improvements, including failure to timely achieve "major milestones" described in the Schedule of Performance, then, in that event, City shall be entitled to deliver to Developer written notice of default, specifying, in detail, all facts alleged by City to constitute such default. For a period of 120 consecutive days after receipt of such notice of default, Developer shall have the right to commence and complete cure of the alleged default; provided, however, if the default is of such a nature as to reasonably require more than 120 days to cure, as reasonably determined by the City, Developer shall have such additional time as is reasonably necessary to complete such cure.

B. Developer Failure to Cure – City Rights and Remedies. If, at the expiration of the applicable cure period, Developer has not reasonably completed such cure, then, in that event, City shall have the right to exercise any and all rights and remedies provided for in (i) the Performance Trust Deed referenced in Section 2.B.(6) above, and (ii) the Assignments referenced in Section 3.C below. At any foreclosure sale under the Performance Trust Deed, City shall have the right to issue a credit (non-cash) bid in an amount equal to the then balance (reduced to the extent of Developer deposits into the Improvement Escrow as referenced in Section 2.B.[6] above) of the Performance Trust Deed. In the event of any inconsistency between the terms of this Agreement and the terms of the Performance Trust Deed, the terms of this Agreement

shall prevail. At such time as the Private Improvements have been substantially completed by Developer, the Performance Trust Deed shall be released and reconveyed in full, regardless of the amount of the outstanding balance then shown as due and/or owing thereunder.

C. Assignment of Consultant and Contractor Agreements. With respect to each Consultant Agreement and each Contractor Agreement, as referenced in Sections 2.B.(3) and 2.B.(5) above, Developer shall, in accordance with the Schedule of Performance, execute and deliver to the City an assignment ("Assignment"), from Developer to City, in substantially the form and substance of Exhibit "F" attached. Each such Assignment shall include, without limitation, assignment of all of Developer's rights under the applicable Consultant Agreement or Contractor Agreement. In the event of any inconsistency between the terms of this Agreement and the terms of any such Assignment, the terms of this Agreement shall prevail. The Developer shall also assign to the City the Developer's rights to all plans and specifications prepared pursuant to this Agreement and all permits and entitlements relating to the Project. At such time as the Private Improvements have been substantially completed by Developer, each such Assignment shall be fully released.

4. Miscellaneous Specific Provisions. The parties further agree to miscellaneous additional provisions as set forth below.

A. Local Requirements Applicable to Agreement. This Agreement is subject to the City's General Plan, the Museum Market Plaza Specific Plan, the Palm Springs Municipal Code and ordinances, and the Redevelopment Plan for Merged Area No. 1, with respect to the Project ("Governmental Regulations").

B. City Fast Track Process. The City shall use good faith efforts, within applicable legal constraints and consistent with applicable City policies, to take such actions as may be necessary or appropriate to effectuate and carry out this Agreement in a timely and commercially reasonable manner and to reasonably "fast track" the processing of all applications submitted by Developer to pursue the Revitalization Plan and/or create and refurbish the Private Improvements.

C. Subdivision Issues. The parties acknowledge and agree that the California Subdivision Map Act allows, without the necessity of recording a subdivision or parcel map, conveyances to and from public agencies such as the City, and leasing and financings of portions of parcels of property designated for commercial use. Nevertheless, in connection with pursuit and implementation of the Revitalization Plan, Developer may desire to record one or more subdivision or parcel maps against the DFP Area (or portions thereof). In this regard, the parties agree to cooperate with each other, and the City agrees to reasonably "fast track" the processing of any subdivision or parcel map desired by Developer (including any vesting tentative map), and to promptly

provide and issue certificates of compliance as and to the extent reasonably necessary or expedient as determined by the City.

D. Easement Agreement. Concurrently with close of the Acquisition Escrow, and as a part thereof, City and Developer shall execute and cause to be recorded with the Official Records of Riverside County, California, an Easement Agreement in the form of Exhibit "G " attached hereto.

E. Escrow Matters. In the event of any inconsistency between the terms of this Agreement and the terms of any escrow instructions executed pursuant to this Agreement, the terms of this Agreement shall control unless a contrary intent is clearly expressed in the inconsistent escrow instructions. All escrow fees, charges, and title insurance costs for any escrow or title insurance called for herein shall be shared equally by the parties. Unless otherwise provided herein, Escrow Holder shall process and handle all escrow matters contemplated herein in the manner that is customary in the Coachella Valley area of Riverside County.

F. Eminent Domain. Prior to entering into this Agreement, City expressed a desire to acquire all property covered by the Specific Plan by use of powers of eminent domain, and Developer expressed an intent to oppose any such effort. In that regard, this Agreement represents a negotiated compromise between City and Developer and, as a part hereof, City agrees as follows: In the event this Agreement is terminated by City as the result of the inability of City to identify and reserve City funding, as referenced in Section 1.A.(1)(a) above, or for any other reason not the fault of Developer, City shall not, for a period of [time to be determined by Council on 09/07/2011] following such termination, directly or indirectly or in any way, attempt to take or acquire all or portions of any properties or improvements covered by the Specific Plan via use or exercise of eminent domain, or any similar or related public power or powers of the City. The covenants and agreements of City pursuant to this Section 4.E shall survive and remain in effect for a period of three (3) years from and after any such termination by City.

G. Release. This Agreement is a voluntary agreement and Developer, on behalf of Developer and Developer's successors and assigns, fully releases City, the City's Redevelopment Agency, its officials, officers, attorneys, employees, and agents (the "Released Entities") from all claims and causes of action by reason of any damage that has been sustained, or may be sustained, as a result of City's or Agency's efforts, prior to execution of this Agreement, to acquire the Property or any preliminary steps thereto. Developer further releases and agrees to hold the Released Entities from any and all claims and causes of action by or on behalf of any leasehold interest in the DFP Area.

H. City's Sole Liability. The City's sole liabilities to Developer or any third party are those obligations expressly and specifically provided in this Agreement.

I. Developer Right of First Refusal for Blocks H-1 and H-2. In the event that at any time in the future, City elects to sell Blocks H-1 and/or H-2, as shown on the Project Site Plan, or portions thereof, for solely private purposes, i.e., for purposes exclusive of public or non-profit purposes, Developer shall have a right of first refusal to match any offer received by City, and to purchase such Blocks H-1 and/or H-2, in accordance with the following: City shall promptly notify Seller that City has received an offer that it desires to accept and, concurrently therewith, provide Developer with an exact copy of such offer, and Developer shall have, for a period of sixty (60) days after receipt, the right to notify that Developer desires to match the terms of such offer and purchase the property. In such event, an escrow shall be promptly opened and closed with a reputable escrow company and City shall sell (and convey good and marketable title to) the property to Developer. Legal descriptions covering Blocks H-1 and H-2 shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution.

J. Developer Right of First Refusal for Museum Drive. In the event that at any time in the future, City decides to abandon portions of Museum drive located adjacent to O'Donnell Golf Course, as shown on the Specific Plan, and sell same, or portions thereof, for solely private purposes, i.e., for purposes exclusive of public or non-profit purposes, Developer shall have a right of first refusal to match any offer received by City, and to purchase such property in the same manner as contemplated for purchase of Blocks H-1 and/or H-2, as provided in Section 4.F above. Legal descriptions covering such property shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution.

K. Not a Development Agreement. This Agreement is not a development agreement as provided in Government Code Section 65864 and is not a grant of any entitlement, permit, land use approval, or vested right in favor of the Developer or the Project.

L. License to Enter. Developer grants to City and City's authorized agents, contractors, consultants, engineers, assigns, and other representatives an irrevocable license to enter upon the Public assets for the purpose of making inspections and other examinations of the Public assets, including without limitation the right to perform soil, geological, structural, engineering, and environmental tests of the Public Assets. City will give Developer ten (10) hours notice before going on the Public Assets.

M. Development Mitigation Fee Schedule. A Development Mitigation Fee Schedule, which sets forth reasonable estimates of the parties with respect to anticipated development mitigation fees to be incurred in connection with the Project, is attached hereto as Exhibit "H".

5. Miscellaneous General Provisions.

A. Entire Agreement. This Agreement (together with a Reimbursement Agreement and a Confidentiality Agreement previously entered into between City and Developer, and other agreements to be entered into between City and Developer as provided herein) contains the entire agreement of the parties with respect to matters covered herein, and there are no other agreements or representations, written or oral, other than as contained herein.

B. Cooperation. Each party agrees to and shall do and perform such other and further acts and properly execute and deliver such other and further documents as may be reasonably necessary, expedient or convenient to implement the intents and purposes hereof.

C. Reasonable Approvals. Whenever this Agreement requires or calls for the approval or consent of any party hereto, such approval shall not be unreasonably withheld, delayed, or conditioned.

D. Binding Arbitration. In the event of any dispute or controversy arising out of or relating to this Agreement, or the breach or performance of it, the Parties shall reasonably attempt to resolve each such dispute or controversy without resort to third party review or resolution. The Parties shall first meet and confer on any such dispute or controversy. Such meetings shall include any principal of the Developer and at the discretion of the City may include the City Manager and/or the City Council either as a whole or through an ad hoc subcommittee designated by the City Council. Upon the Parties determination that the Parties are unable to resolve the dispute or controversy on their own, the Parties shall submit the dispute, controversy, or any remaining disputed matter to binding arbitration, to be held in the Coachella Valley, and be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association.

E. Legal Fees. In the event of any dispute, arbitration, or litigation arising out of or relating to this Agreement, or the breach or performance of it, the parties will bear their own respective legal fees and costs incurred in connection therewith.

F. Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of such party's obligations under this Agreement is caused by any event described below, where any such event is beyond the control of the claiming party and such party's contractors and consultants and is not due to an act or omission of the claiming party or such party's contractors or consultants, and such event directly, materially and adversely affects (a) the ability of the claiming party to meet its non-monetary obligations under this Agreement, including deadlines imposed by the Schedule of Performance, or (b) the ability of the claiming party to

complete improvements (Private Improvements in the case of Developer and Public Improvements in the case of City), and which event (or the effect thereof) could not have been avoided by due diligence and use of reasonable efforts by the claiming party:

(1) Unusually Severe Weather: weather conditions not reasonably anticipatable for that portion of the City of Palm Springs where the downtown area is located, based upon U.S. Weather Bureau climatological reports for the months included and a report indicating average precipitation, temperature, etc., for the previous ten (10) year period from the nearest weather reporting station;

(2) Civil Unrest: an epidemic, blockage, quarantine, rebellion, war, insurrection, act of terrorism, strike or lock-out, riot, act of sabotage, civil commotion, act of a public enemy, or freight embargo;

(3) Unforeseeable Conditions: reasonably unforeseeable physical conditions of the existing DFP Area or improvements thereon, including the presence of hazardous materials, as defined by applicable state and federal laws and regulations;

(4) Casualty: fire, earthquake, flood or other casualty, in each case only if causing material physical destruction or damage to improvements (Private Improvements in the case of Developer and Public Improvements in the case of City);

(5) Litigation: any lawsuit seeking to restrain, enjoin, challenge or delay the issuance of any entitlement, or restraining, enjoining, challenging or delaying construction of improvements ((Private Improvements in the case of Developer and Public Improvements in the case of City), which is vigorously defended by the claiming party and which is finally determined in a manner which restricts the ability of such party to perform its material obligations hereunder, or which results in a injunction against such party restricting its ability to so perform during the pendency of such injunction and which directly impairs the ability of the claiming party to perform despite commercially reasonable efforts to do so;

(6) Change of Law: the passage of a referendum or initiative that results in the inability of the claiming party to perform its material obligations hereunder; and/or

(7) Conduct by Other Party: conduct (action or inaction) by the other party which delays the ability of the claiming party to perform its material obligations under this Agreement, but only during periods in which such conduct (action or inaction) actually delays such performance.

G. No Partnership. Notwithstanding language in this Agreement referring to "public-private participation", or words or similar import, it is acknowledged

that the relationship of the City to the Developer is neither that of a partnership nor that of a joint venture and that neither the City nor the Developer shall be deemed or construed for any purpose to be the agent of the other Party, and neither Party shall have the power or the authority to speak on behalf of the other Party or to bind the other Party to any contractual or other obligations. The Developer shall not at any time hold itself out to the City or to any other third party as an agent of the City, as applicable, and shall not, by any act or omission, mislead any third party into believing, or allow any third party to continue in the mistaken belief, that the Developer is an agent of the City or has the power or authority to bind the City to any contractual or other obligation.

H. Binding on Successors. This Agreement shall be binding on the parties hereto, their heirs, successors and assigns.

I. Independent Legal Representation. Each party hereto has, at all times during the negotiation and execution of this Agreement, been represented by independent legal counsel.

J. Incorporation of Recitals and Exhibits. All recitals herein and all Exhibits attached hereto are incorporated into and made a part of this Agreement. Said Exhibits are identified as follows:

Exhibit	Exhibit Identification
A	Project Site Plan
B	Project Description
C	Improvement Escrow Agreement
D	Schedule of Performance
E	Performance Trust Deed
F	Assignment
G	Easement Agreement
H	Development Mitigation Fee Schedule

K. Captions and Headings. Any captions or headings in this Agreement are for convenience only, and shall not be used to determine or construe meanings of substantive language herein.

L. Applicable Law. This Agreement is entered into in California, and relates to California real property, and shall be determined in accordance with the laws of the State of California.

M. Venue. In the event of any arbitration or litigation arising out of or relating to this Agreement, or the breach or performance of it, any such arbitration

shall be conducted in the Coachella Valley, and any such litigation shall be filed in the Indio Branch of the Riverside County Superior Court.

N. Severability. In the event any provisions of this Agreement is deemed or construed by arbitration or a court of competent jurisdiction to be unenforceable, the remaining provisions shall nevertheless remain binding and enforceable to the maximum extent possible.

O. Interpretation. This Agreement and language herein has been prepared and agreed to by both parties, and any rules of contract interpretation calling for construction against one party or the other based on drafting, shall be inapplicable.

P. Notices. As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder. All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown in the records of the telegraph company after transmission by telegraph to the recipient named below. All notices shall be addressed as follows:

If to City:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, California 92262
Attn: City Manager
Telephone: (760) 322-8350
Facsimile: (760) ___-____

Copy to:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, California 92262
Attn: City Attorney
Telephone: (760) 323-8211
Facsimile: (760) 323-8207

If to Developer:
Palm Springs Promenade, LLC
555 South Sunrise Way, Suite 200
Palm Springs, California 92264

Attn: John Wessman
Telephone: (760) 325-3050
Facsimile: (760) 325-5848

Copy to:
Ealy, Hemphill & Blasdel, LLP
71780 San Jacinto Drive, Suite I-3
Rancho Mirage, California 92270-5518
Attn: W. Curt Ealy
Telephone: (760) 340-0666
Facsimile: (760) 340-4666

Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change

Q. Authority. Each party represents and warrants to the other that such party has full right, power and authority to sign, execute and enter into this Agreement.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and made it effective as of the day and year set forth above.

DEVELOPER: PALM SPRINGS PROMENADE, LLC
A California limited liability company
By: _____
Title: _____
Dated: _____

CITY: CITY OF PALM SPRINGS
A California municipal corporation and charter city
By: _____
Title: _____
Dated: _____

ATTEST: _____
City Clerk

APPROVED AS
TO LEGAL FORM: _____
City Attorney

WHEN RECORDED MAIL TO:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Manager

SEND TAX NOTICES TO:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Manager

FOR RECORDER'S USE ONLY

PERFORMANCE TRUST DEED

THIS DEED OF TRUST is dated _____, 2012, among Palm Springs Promenade, LLC, a California limited liability company, whose address is 555 South Sunrise Way, Suite 200, Palm Springs, CA 92264 ("Trustor"); the City of Palm Springs, a municipal corporation and charter city, whose address is 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262 (referred to herein sometimes as "City" and sometimes as "Beneficiary"); and Fidelity National Title Company, a California corporation, whose address is 1300 Dove Street, Suite 310, Newport Beach, CA 92660 ("Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Trustor hereby grants, transfers and assigns to Trustee in trust, with power of sale, for the benefit of City as Beneficiary, all of Trustor's right, title, and interest in and to the following described real property, together withal existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") **located in Riverside County, State of California:**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Trustor presently assigns to City (also known as Beneficiary in this Deed of Trust) all of Trustor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. This is an absolute assignment of Rents made in connection with an obligation secured by real property pursuant to California Civil Code Section 2938. In addition, Trustor grants to City a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN

TO SECURE PERFORMANCE OF ALL OBLIGATIONS OF TRUSTOR TO COMPLETE PRIVATE IMPROVEMENTS PURSUANT TO 2.B.(6) OF THAT CERTAIN PROJECT FINANCING AGREEMENT BETWEEN TRUSTOR AND CITY DATED _____. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PERFORMANCE. Except as otherwise provided in this Deed of Trust, Trustor shall strictly and in a timely manner perform all of Trustor's obligations to complete Private Improvements pursuant to Section 2.B.(6) of the above referenced Project Financing Agreement. (The Project Financing Agreement is incorporated herein by reference as though set forth in full and all defined terms therein shall, except to the extent, if any, otherwise specifically indicated, have the same meanings herein.)

POSSESSION AND MAINTENANCE OF THE PROPERTY. Trustor agrees that Trustor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Trustor may (1) remain in possession and control of the Property; (2) use, operate and/or manage the Property, and construct improvements thereon pursuant to the Project Financing Agreement; and (3) collect the Rents from the Property.

Duty to Maintain. Trustor shall, subject to constructing improvements pursuant to the Project Financing Agreement, maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. To Trustor's current actual knowledge, with no further duty of inquiry or investigation, Trustor represents and warrants to City that: (1) During the period of Trustor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property, except in compliance with applicable Environmental Laws; (2) Trustor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by City in writing, (a) any breach or violation of any Environmental Laws, (b) any use generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, except in compliance with applicable Environmental Laws; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by City in writing, (a) neither Trustor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property, except in compliance with applicable Environmental Laws; and (b) any such activity shall be conducted in compliance

with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Trustor authorizes City and its agents to enter upon the Property to make such inspections and tests, at City's expense, as City may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by City shall be for City's purposes only and shall not be construed to create any responsibility or liability on the part of City to Trustor or to any other person. Trustor hereby releases and waives any future claims against City for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any such laws. The provisions of this section of the Deed of Trust shall survive the reconveyance of the lien of this Deed of Trust and shall not be affected by City's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Except for demolition and construction work contemplated by the Project Financing Agreement, Trustor shall not cause, conduct or permit any nuisance nor commit, permit or suffer any stripping of or waste on or to the Property or any portion of the Property.

Removal of Improvements. Except for demolition and construction work contemplated by the Project Financing Agreement, Trustor shall not demolish or remove any Improvements from the Real Property without City's prior written consent.

City's Right to Enter. City and City's agents and representatives may enter upon the Real Property at all reasonable times to attend to City's interests and to inspect the Real Property for purposes of Trustor's compliance with the terms and conditions of this Deed of Trust.

Compliance with Governmental Requirements. Trustor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, demolition and construction work contemplated by the Project Financing Agreement. Trustor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Trustor has notified City in writing prior to doing so and so long as, in City's reasonable opinion, City's interests in the Property are not jeopardized.

Duty to Protect. Trustor agrees neither to abandon nor leave unattended the Property. Trustor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

Construction. Construction of Private Improvements shall be completed in accordance with the provisions of the Project Financing Agreement.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

Payment. Trustor shall pay when due (and in all events at least ten (10) days prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall, subject to Trustor's right to contest, pay when due all claims for work done on or for services rendered or material furnished to the Property. Trustor shall maintain the Property free of all liens having priority over or equal to the interest of City under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Trustor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as City's interest in the Property is not jeopardized. In any contest, Trustor shall defend itself and City and shall satisfy any adverse judgment before enforcement against the Property.

Evidence of Payment. Trustor shall upon demand furnish to City satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to City at any time a written statement of the taxes and assessments against the Property.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust.

Maintenance of Insurance. Trustor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a fair value basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of City. Trustor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as City may reasonably request with trustee and City being named as additional insureds in such liability insurance policies. Additionally, Trustor shall maintain such other insurance, including but not limited to hazard, business interruption, course of construction and boiler insurance, as City may reasonably require. Notwithstanding the foregoing, in no event shall Trustor be required to provide hazard insurance in excess of the replacement value of the Improvements on the Real Property. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to City and issued by a company or companies reasonably acceptable to City. Trustor, upon request of City, will deliver to City from time to time the policies or certificates of insurance in form satisfactory to City, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to City. Each insurance policy also shall include an

endorsement providing that coverage in favor of City will not be impaired in any way by any act, omission or default of Trustor or any other person.

Application of Proceeds. Trustor shall promptly notify City of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $50,000.00. City may make proof of loss if Trustor fails to do so within fifteen (15) days of the casualty. If in City's sole judgment City's security interest in the Property has been impaired, City may at City's election, receive the proceeds of any insurance and apply such proceeds to restoration and repair of the Property. If the proceeds are to be applied to restoration and repair, Trustor shall repair or replace the damaged or destroyed Improvements in a manner reasonably satisfactory to City. City shall, upon satisfactory proof of such expenditure, pay or reimburse Trustor from the proceeds for the reasonable cost of repair or restoration.

Unexpired Insurance at Sale. Any unexpired Insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Deed of Trust at any trustee's sale or other sale held under the provisions of this Deed of Trust, or at any foreclosure sale of such Property.

Trustor's Report on Insurance. Upon request of City, however not more than once a year, Trustor shall furnish to City a report on each existing policy of Insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy.

CITY'S EXPENDITURES. If any action or proceeding is commenced that would adversely and materially affect City's interest in the Property or if Trustor fails to discharge or pay when due any amounts Trustor is required to discharge or pay under this Deed of Trust, City on Trustor's behalf may (but shall not be obligated to) take any action that City deems reasonably appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by City for such purposes shall be promptly repaid by Trustor.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of Trust:

Title. Trustor warrants that: (a) Trustor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other that those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, City in connection with this Deed of Trust, and (b) Trustor has the full right, power, and authority to execute and deliver this Deed of Trust to City.

Defense of Title. Subject to the exception in the paragraph above, Trustor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Trustor's title or the interest of Trustee or City under this Deed of Trust, Trustor shall defend the action at Trustor's expense. Trustor may be the nominal party in such proceeding, but City shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of City's own choice, and Trustor will deliver, or cause to be delivered, to City such instruments as City may request from time to time to permit such participation.

Compliance With Laws. To Trustor's current actual knowledge, with no further duty of inquiry or investigation, Trustor represents and warrants to City that Trustor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Trustor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as this Deed of Trust is reconveyed in full.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures or other personal property, and City shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by City, Trustor shall execute financing statements and take whatever other action is requested by City to perfect and continue City's security interest in the Rents and Personal Property. Trustor shall reimburse City for all expenses incurred in perfecting or continuing this security interest. Upon default, Trustor shall assemble the Personal Property in a manner and at a place reasonably convenient to Trustor and City and make it available to City within three (3) days after receipt of written demand from City.

Addresses. The mailing addresses of Trustor and City from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of City, Trustor will make, execute and deliver, or will cause to be made, executed or delivered, to City or to City's designee, and when requested by City, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as City may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the reasonable opinion of City, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Trustor's obligations under this Deed of Trust, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property. Unless prohibited by law or City agrees to the contrary in writing, Trustor shall reimburse City for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Trustor fails to do any of the things referred to in the preceding paragraph, City may do so for and in the name of Trustor and at Trustor's expense. For such purposes, Trustor hereby irrevocably appoints City as Trustor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in City's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Trustor completes Private Improvements in the manner provided in Section 2.B.(6) of the Project Financing Agreement, City shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Trustor suitable statements of termination of any financing statement on file evidencing City's security interest in the Rents and the Personal Property.

EVENTS OF DEFAULT. Each of the following, at City's option, shall constitute an Event of Default under this Deed of Trust:

Dissolution or Insolvency. The dissolution of Trustor, the termination of Trustor as a going business, the insolvency of Trustor, the appointment of a receiver for any part of Trustor's property, any assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Trustor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help; repossession or any other method, by any creditor of Trustor or by any governmental agency against the Property. This includes a garnishment of any of Trustor's accounts. However, this Event of Default shall not apply if there is a good faith dispute by Trustor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Trustor gives City written notice of the

creditor or forfeiture proceeding and takes reasonable steps to contest and defend against any such claim.

Right to Cure. If any default described above under the caption "Dissolution or Insolvency" or under the caption "Creditor or Forfeiture Proceedings" is curable, it may be cured (and no Event of Default will have occurred) if Trustor, after City sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or City may exercise any one or more of the following rights and remedies:

Election of Remedies. Election by City to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Trustor under this Deed of Trust, after Trustor's failure to perform, shall not affect City's right to declare a default and exercise its remedies.

Foreclosure by Sale. Upon an Event of Default under this Deed of Trust, Beneficiary may declare the then balance due under the this Deed of Trust, calculated as provided in Section 2.B. of the Project Financing Agreement, to be immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold the Property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust and a statement as to the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement. After the lapse of such time as may then be required by law following the recordation of the notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property to public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement in accordance with applicable law. Trustee shall deliver to such purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary may purchase at such sale. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds

of sale to payment of: the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement, without any interest accumulation thereon, and the remainder, if any, to the person or persons legally entitled thereto.

Judicial Foreclosure. With respect to all or any part of the Real Property, City shall have the right in lieu of foreclosure by power of sale to foreclose by judicial foreclosure in accordance with and to the full extent provided by California law; provided, however, Trustor shall have no personal liability for any amounts due under this Deed of Trust, and City specifically waives the right to assert or claim any right to such personal liability.

UCC Remedies. With respect to all or any part of the Personal Property, City shall have all the rights and remedies of a secured party under the Uniform Commercial Code, including without limitation the right to recover any deficiency in the manner and to the full extent provided by California Law.

Collect Rents. City shall have the right, without notice to Trustor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above City's costs, against the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement. In furtherance of this right, City may require any tenant or other user of the Property to make payments of rent or use fees directly to City. If the Rents are collected by City, then Trustor irrevocably designates City as Trustor's attorney-in-fact to endorse instruments received in payment thereof in the name of Trustor and to negotiate the same and collect the proceeds. Payments by tenants or other users to City in response to City's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. City may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. City shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the costs of the receivership, against the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement. The receiver may serve without bond if permitted by law. City's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement, by a substantial amount. Employment by City shall not disqualify a person from serving as a receiver.

Tenancy at Sufferance. If Trustor remains in possession of the Property after the Property is sold as provided above or City otherwise becomes entitled to possession of the Property upon default of Trustor, Trustor shall become a tenant

at sufferance of City or the purchase of the Property and shall, at City's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of the City.

Other Remedies. Trustee or City shall have any other right or remedy, if any, provided in this Deed of Trust.

Notice of Sale. City shall give Trustor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least fifteen (15) days before the time of the sale or disposition. Any sale of Personal Property may be made in conjunction with any sale of the Real Property.

Sale of the Property. To the extent permitted by applicable law, Trustor hereby waives any and all rights to have the Property marshaled. In exercising its rights and remedies, the Trustee or City shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. City shall be entitled to bid at any public sale on all or any portion of the Property.

Attorneys' Fees; Expenses. If City institutes any suit or action to enforce any of the terms of this Deed of Trust, City shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses City incurs that in City's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness and be added to the balance due under this Deed of Trust, calculated as provided in Section 2.B.(6) of the Project Financing Agreement. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, City's attorneys' fees and City's legal expenses, whether or not there is a lawsuit, appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Trustor also will pay any court costs, in addition to all other sums provided by law.

Rights of Trustee. Trustee shall have all of the rights and duties of City as set forth in this section.

POWERS AND OBLIGATONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of City and Trustor: (a) join in preparing and

filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any assessment or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of City under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Trustor, City, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all of any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and City shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Successor Trustee. City, at City's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by City and recorded in the office of the recorder of Riverside County, State of California. The instrument shall contain, in addition to all other matters required by state law, the names of the original City, Trustee, and Trustor, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by City or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

NOTICES. Any notice required to be given under this Deed of Trust shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law) when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. Trustor requests that copies of any notices of default and sale be directed to Trustor's address shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to City's address as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Trustor agrees to keep City

informed at all times of Trustor's current address. Unless otherwise provided or required by law, if there is more than one Trustor, any notice given by City to any Trustor is deemed to be notice given to all Trustors.

STATEMENT OF OBLIGATION FEE. City may collect a fee, not to exceed the maximum amount permitted by law, for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with the Project Financing Agreement, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of City in any capacity, without the written consent of City.

Governing Law. This Deed of Trust will be governed by, construed and enforced in accordance with federal law and the laws of the State of California. This Deed of Trust has been accepted by City in the State of California.

No Waiver by City. City shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by City. No delay or omission on the part of City in exercising any right shall operate as a waiver of such right or any other right. A waiver by City of a provision of this Deed of Trust shall not prejudice or constitute a waiver of City's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by City, nor any course of dealing between City and Trustor, shall constitute a waiver of any of City's rights or of any of Trustor's obligations as to any future transactions. Whenever the consent of City is required under this Deed of Trust, the granting of such consent by City in any instance shall not be unreasonably withheld, but also shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of City.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as

to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Trustor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Trustor, City, without notice to Trustor, may deal with Trustor's successors with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Trustor from the obligations of this Deed of Trust or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

Waive Jury. All parties to this Deed of Trust hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

DEFINITIONS. As noted above, the Project Financing Agreement is incorporated herein by reference as though set forth in full and all defined terms therein shall, except to the extent, if any, otherwise specifically indicated, have the same meanings herein. In addition, the following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

Beneficiary. The word "Beneficiary" means the City of Palm Springs, a municipal corporation and charter city, and its successors and assigns.

Deed of Trust. The words "Deed of Trust" means this Deed of Trust among Trustor, City, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Default. The word "Default" means a Default as set forth in this Deed of Trust in the section titled "Events of Default."

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of

human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. (CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1080`, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., Chapters 6.5 through 7.7 of Division 20 of the California Health and Safety Code, Section 25100, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the Events of Default set forth in this Deed of Trust in the Events of Default section of this Deed of Trust.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and/other construction on the Real Property. ("Private Improvements" are defined below.)

City. The word "City" means the City of Palm Springs, a municipal corporation and charter city, and its successors and assigns.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Trustor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property. The words "Personal Property" also include all tangible and intangible items obtained or owned by, or in the possession of Trustor that are directly or indirectly related to the acquisition, development, design, construction, permitting, marketing, or habitation of the Real Property or the improvements to be constructed on the Real Property, whether heretofore or hereafter issued, prepared, or executed, including without limitation all permits, licenses, authorizations, allocations and other rights or approvals relating to or

authorizing the development or occupancy of the Property, plus all utility or other deposits, reimbursement rights, studies, tests, contracts, plans and specifications, relating to the Property and improvements.

Private Improvements. The words "Private Improvements" shall have the meaning as set forth in the Project Financing Agreement.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Rents. The word "Rents" means all present and future leases, rents, revenues, income, issues, royalties, profits and other benefits derived from the Property together with the cash proceeds of the Rents.

Trustee. The word "Trustee" means Fidelity National Title Company, a California corporation.

Trustor. The word "Trustor" means Palm Springs Promenade, LLC, a California limited liability company.

TRUSTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST.

TRUSTOR:

Palm Springs Promenade, LLC
A California limited liability company

By: _____
Title: _____
Dated: _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) SS
COUNTY OF RIVERSIDE)

On _____, 2011 before me _____, personally appeared _____, personally known to me to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted executed the instrument.

Witness my hand and official seal,

Signature _____

(DO NOT RECORD)
REQUEST FOR FULL RECONVEYANCE
(To be used only when obligations have been paid in full)

To: _____, Trustee

The undersigned is the legal owner and holder of all sums secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Palm Springs Promenade, LLC
555 South Sunrise Way, Suite 200
Palm Springs, California 92264
Attn: John Wessman
Telephone: (760) 325-3050
Facsimile: (760) 325-5848

Date: _____ **Beneficiary: _____**
By: _____
Its: _____

Desert Fashion Plaza

Revitalization Plan Project Financing Agreement

Legal Descriptions and Parcel Map Lots

September 7, 2011

EXHIBIT "A"

LOT A

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, AND A PORTION OF NORTH PALM CANYON DRIVE AS VACATED BY THE CITY OF PALM SPRINGS BY RESOLUTION OF ABANDONMENT RECORDED NOVEMBER 19, 1991 AS INSTRUMENT NO. 400968. RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;

COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;

THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE, AND ***THE TRUE POINT OF BEGINNING***;

THENCE CONTINUING SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS SOUTH 63° –05'-52"EAST;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 125° –55'-44" AND A LENGTH OF 96.71 FEET;

THENCE SOUTH 89° –52'-00" WEST, A DISTANCE OF 251.09 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 152.92 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 50.67 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 112.92 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 37.42 FEET;

THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 44.73 FEET TO THE WESTERLY LINE OF SAID PARCEL 1;

THENCE NORTH 00°-08'-00" WEST ALONG SAID WESTERLY LINE OF SAID PARCEL 1, A DISTANCE OF 40.00 FEET;

THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 44.73 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 152.92 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 50.67 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 112.92 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 37.42 FEET;

THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 251.09 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 63°-05'-52" WEST;
THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 125° –55'-44" AND A LENGTH OF 96.71 FEET;
THENCE NORTH 89° –52'-00" EAST, A DISTANCE OF 265.39 FEET TO THE WEST LINE OF SAID NORTH PALM CANYON DRIVE;
THENCE SOUTH 00°-08'-00" EAST ALONG SAID WEST LINE, A DISTANCE OF 40.00 FEET TO THE TRUE POINT OF BEGINNING.

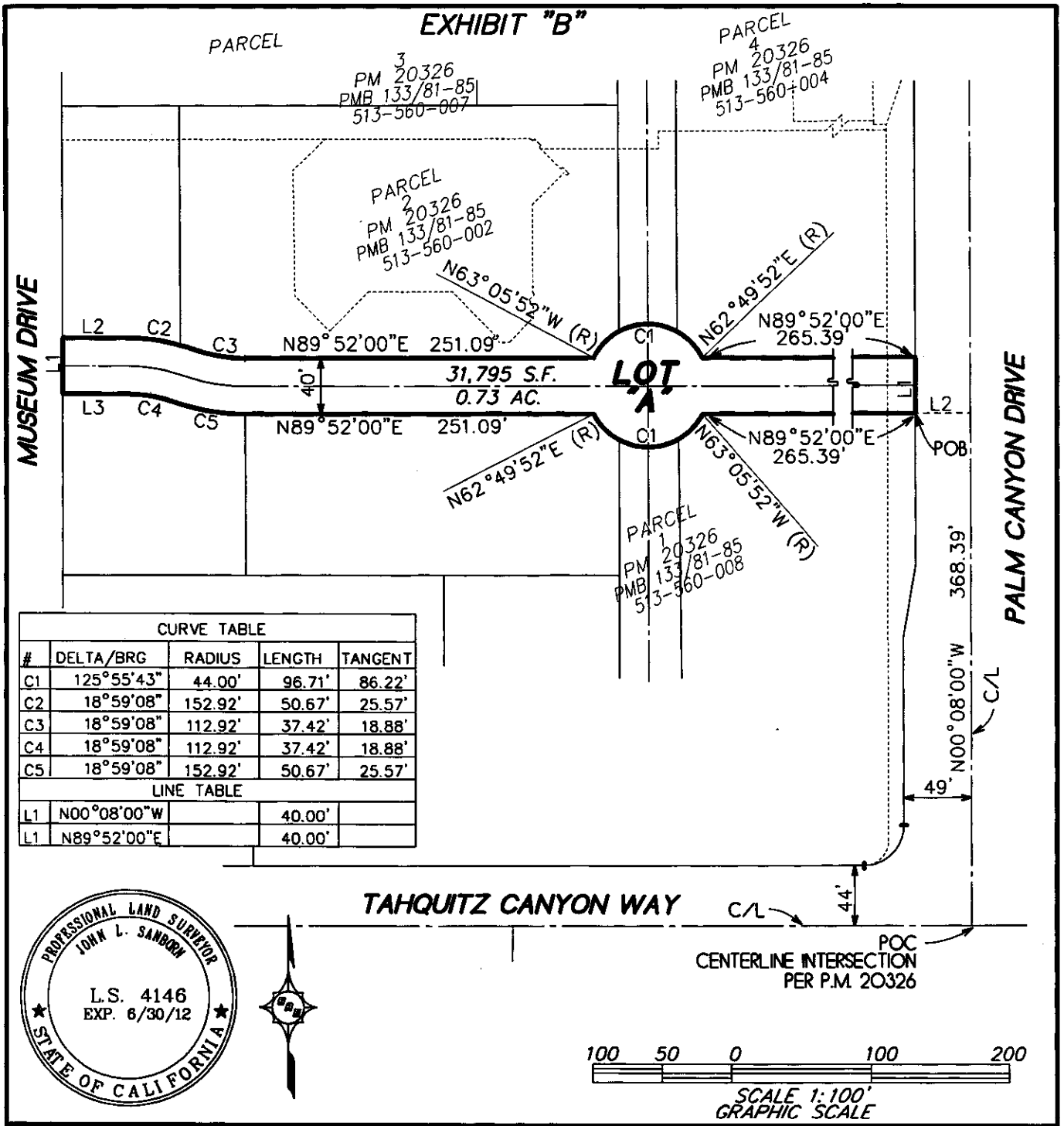
CONTAINING 31,795 SQ. FT./ 0.73 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	125°55'43"	44.00'	96.71'	86.22'
C2	18°59'08"	152.92'	50.67'	25.57'
C3	18°59'08"	112.92'	37.42'	18.88'
C4	18°59'08"	112.92'	37.42'	18.88'
C5	18°59'08"	152.92'	50.67'	25.57'
LINE TABLE				
L1	N00°08'00"W		40.00'	
L1	N89°52'00"E		40.00'	

PROFESSIONAL LAND SURVEYOR JOHN L. SANBORN L.S. 4146 EXP. 6/30/12 STATE OF CALIFORNIA

CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

DATE

7987
P.L.S.

R-O-W DEDICATION

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

LOT B

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1 AND ***THE TRUE POINT OF BEGINNING;***
THENCE SOUTH 89°-50'-25" WEST ALONG SAID NORTH LINE, A DISTANCE OF 46.00 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 305.89 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS SOUTH 28°-22'-27" WEST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°-00'-53" AND A LENGTH OF 43.78 FEET;
THENCE SOUTH 00°-52'-57" EAST, A DISTANCE OF 305.90 FEET TO SAID NORTH LINE OF TAHQUITZ CANYON WAY AND THE TRUE POINT OF BEGINNING.

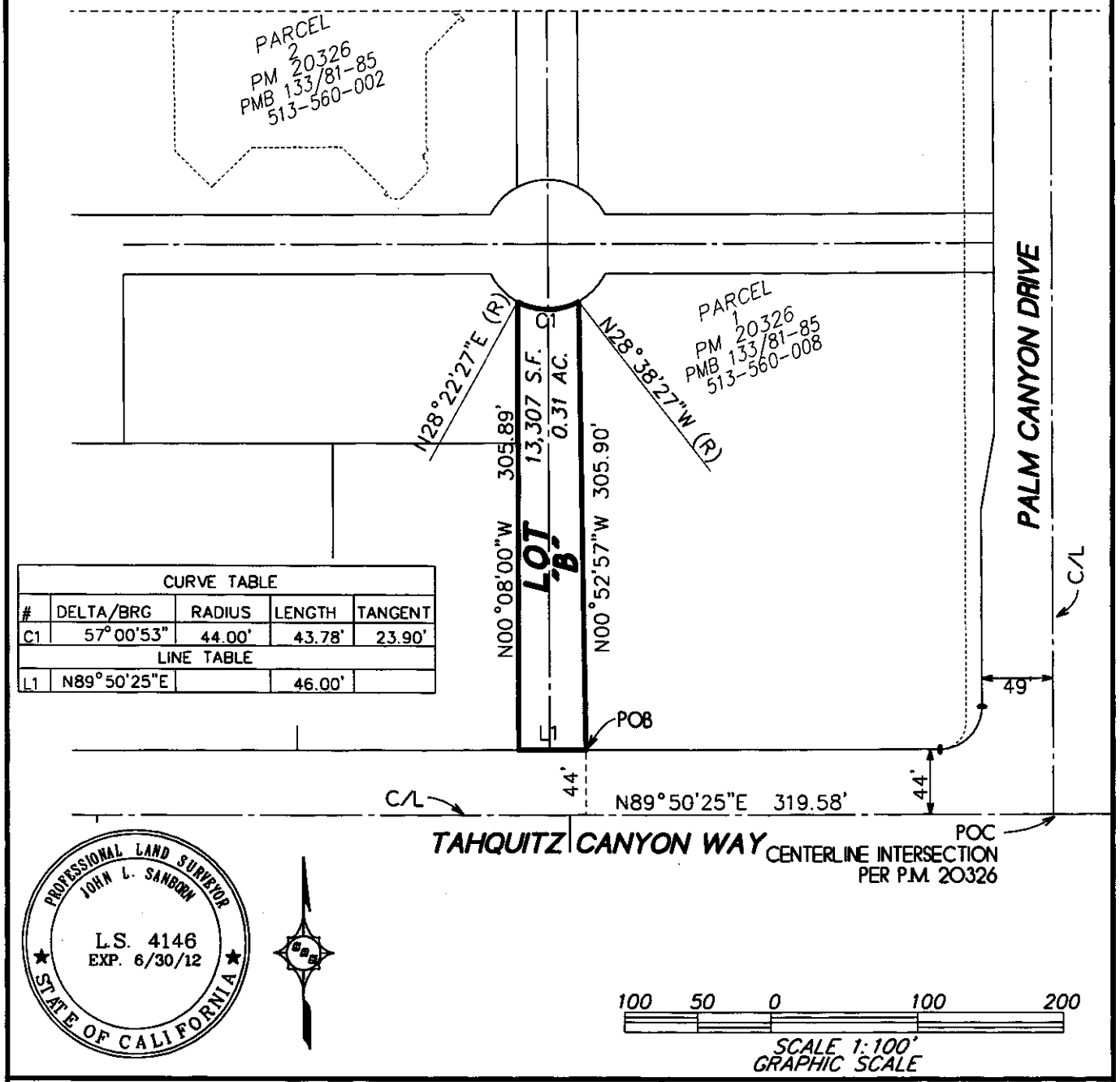
CONTAINING 13,307 SQ. FT./ 0.31 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	57°00'53"	44.00'	43.78'	23.90'
LINE TABLE				
L1	N89°50'25"E		46.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

DATE

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

7987
P.L.S.

R-O-W DEDICATION

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

LOT C

ALL THAT PORTION OF PARCEL 1 AND PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°- 08'-00" WEST ALONG SAID WEST LINE, A DISTANCE OF 40.00 FEET;
THENCE SOUTH 89° –52'-00" WEST A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 62° – 49'-52" EAST;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34° –21'-25" AND A LENGTH OF 26.46 FEET TO ***THE TRUE POINT OF BEGINNING***;
THENCE NORTH 00 –08'-00" WEST, A DISTANCE OF 239.95 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET;
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06° –48'-57" AND A LENGTH OF 138.48 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 831.03 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05° – 13'-07" AND A LENGTH OF 75.69 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL 3;
THENCE SOUTH 44° –52'-00" WEST ALONG SAID NORTH LINE, A DISTANCE OF 146.81 FEET;
THENCE SOUTH 89°-50'-25" WEST, A DISTANCE OF 53.04 FEET OT A POINT ON A NONTANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1206.16 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 84° –54'-31" WEST;
THENCE SOUTH ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05° –13'-29" AND A LENGTH OF 109.99 FEET;
THENCE SOUTH 00° –08'-00" EAST, A DISTANCE OF 239.95 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 28°–38'-27" WEST;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°–00'-53" AND A LENGTH OF 43.78 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 19,565 SQ. FT./ 0.45 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105

EXHIBIT "A"

LOT D

ALL THAT PORTION OF PARCEL 3 AND PARCEL 4 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, AND A PORTION OF NORTH PALM CANYON DRIVE AS VACATED BY THE CITY OF PALM SPRINGS BY RESOLUTION OF ABANDONMENT RECORDED NOVEMBER 19, 1991 AS INSTRUMENT NO. 400968. RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 647.00 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE, AND ***THE TRUE POINT OF BEGINNING***;
THENCE CONTINUING SOUTH 89°-52'-00" WEST, A DISTANCE OF 283.58 FEET;
THENCE NORTH 00°-08'-00" WEST A DISTANCE OF 20.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°-28'-36" AND A LENGTH OF 30.00 FEET; THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 283.19 FEET TO SAID WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE SOUTH 00°-08'-00" EAST ALONG SAID WEST LINE, A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING.

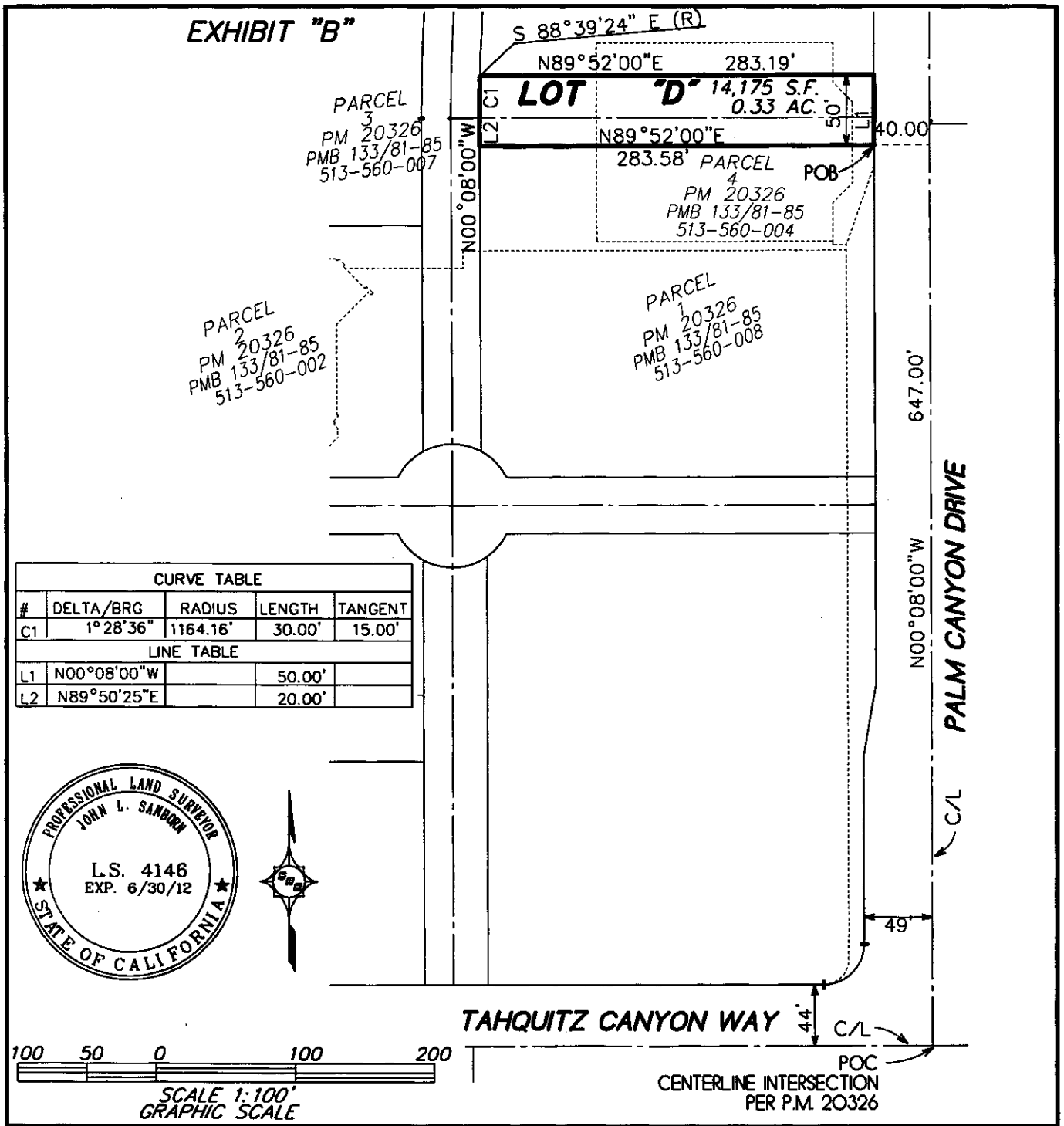
CONTAINING 14,175 SQ. FT./ 0.33 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	1°28'36"	1164.16'	30.00'	15.00'
LINE TABLE				
L1	N00°08'00"W		50.00'	
L2	N89°50'25"E		20.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

DATE

7987
P.L.S.

R-O-W DEDICATION

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 1

ALL THAT PORTION OF PARCEL 3 AND PARCEL 4 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 647.00 FEET;
THENCE SOUTH 89°52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE AND THE EAST LINE OF SAID PARCEL 3;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE AND EAST LINE OF SAID PARCEL 3, A DISTANCE OF 50.00 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 283.19 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 88°-39'-24" WEST;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°-20'-21" AND A LENGTH OF 108.48 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 831.03 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°-13'-07" AND A LENGTH OF 75.69 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL 3, THE FOLLOWING EIGHT COURSES BEING ALONG THE NORTHWESTERLY, WEST, NORTH AND EAST LINES OF SAID PARCEL 3;
THENCE NORTH 44°-52'-00" EAST, A DISTANCE OF 17.43 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 21.60 FEET;
THENCE NORTH 89°-54'-13" EAST, A DISTANCE OF 176.28 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 1.47 FEET;
THENCE NORTH 89°-55'-24" EAST, A DISTANCE OF 44.63 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 0.50 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 36.57 FEET;
THENCE SOUTH 00°-08'-00" EAST A DISTANCE OF 219.35 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 59,749 SQ. FT./ 1.37 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105

EXHIBIT "B"

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	06°48'57"	1164.16'	138.48'	69.32'
C2	05°13'07"	831.03'	75.69'	37.87'
LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		50.00'	
L3	N44°52'00"E		17.43'	
L4	N00°08'00"W		21.60'	
L5	N00°08'00"W		1.47'	
L6	N89°55'24"E		44.63'	
L7	N00°08'00"W		0.50'	
L8	N89°52'00"E		36.57'	

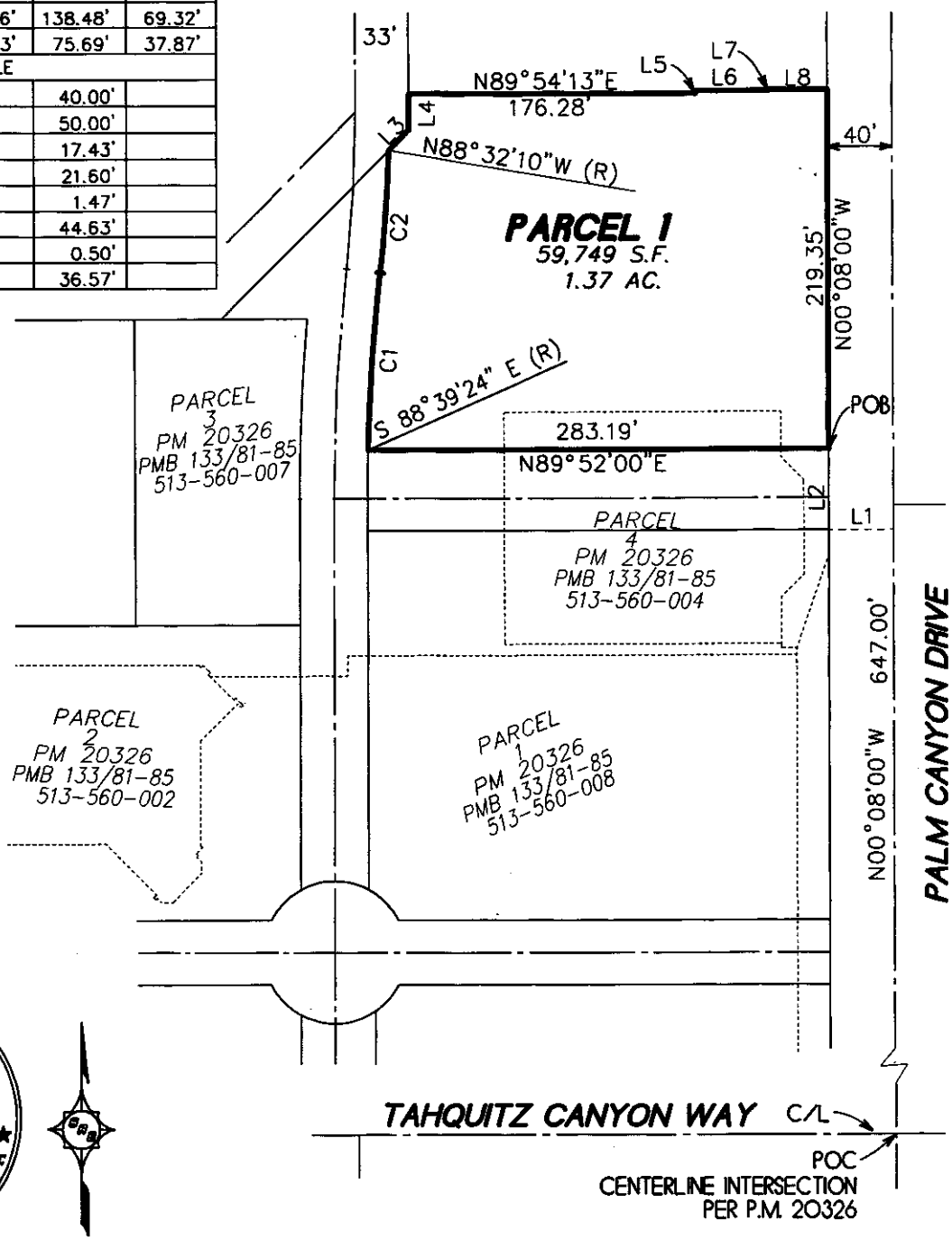


EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 2

ALL THAT PORTION OF PARCEL 1, PARCEL 3 AND PARCEL 4 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, AND A PORTION OF NORTH PALM CANYON DRIVE AS VACATED BY THE CITY OF PALM SPRINGS BY RESOLUTION OF ABANDONMENT RECORDED NOVEMBER 19, 1991 AS INSTRUMENT NO. 400968. RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE, A DISTANCE OF 40.00 FEET AND ***THE TRUE POINT OF BEGINNING***;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 62° –49'-52"EAST;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34° –27'-25" AND A LENGTH OF 26.46 FEET;
THENCE NORTH 89° –52'-00" WEST, A DISTANCE OF 219.95 FEET;
THENCE NORTH 00°-08'-00" EAST, A DISTANCE OF 283.58 FEET TO THE WEST LINE OF SAID NORTH PALM CANYON DRIVE;
THENCE SOUTH 00°-08'-00" EAST ALONG SAID WEST LINE, A DISTANCE OF 238.61 FEET TO THE POINT OF BEGINNING.

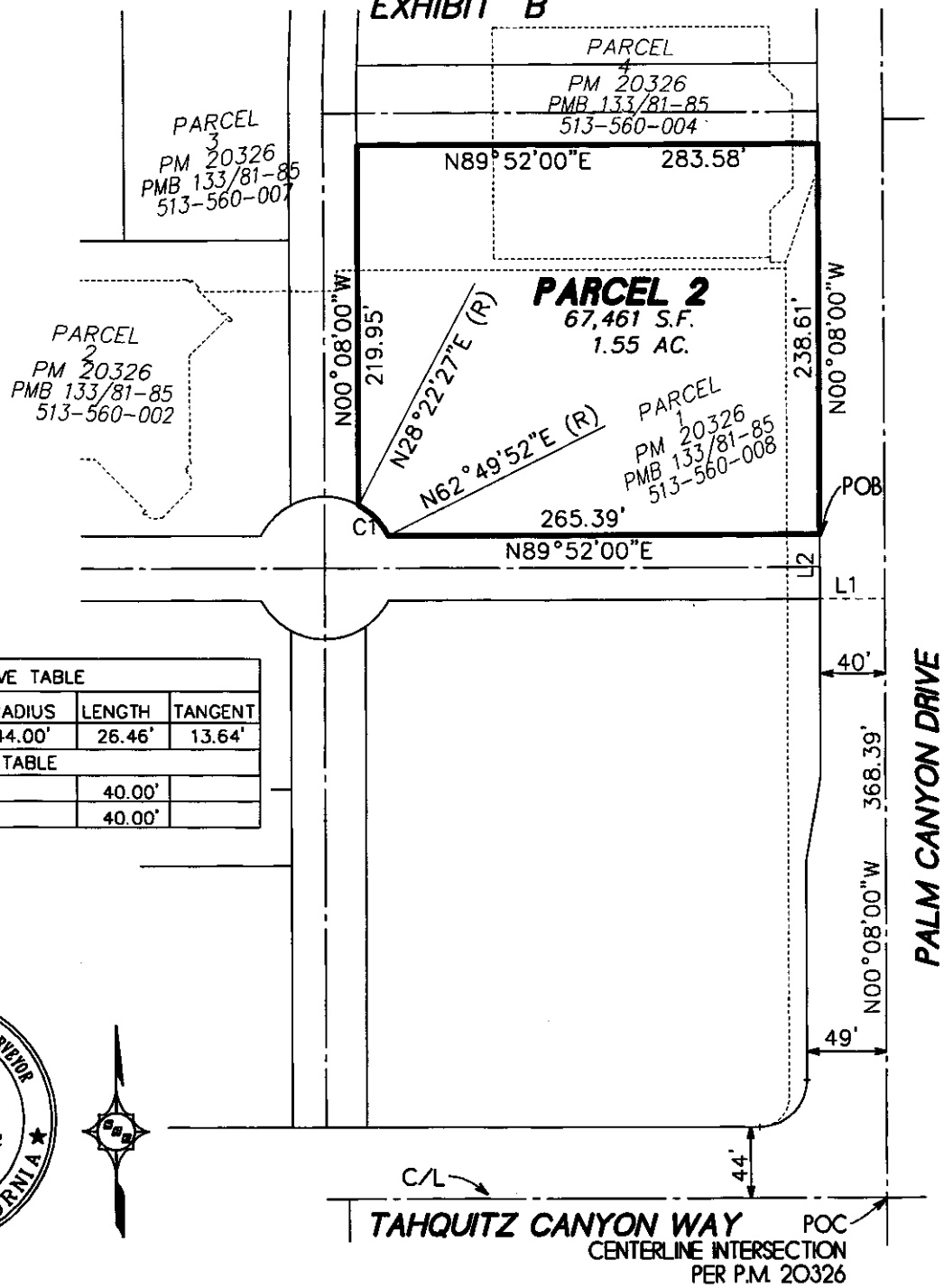
CONTAINING 67,461 SQ. FT./ 1.55 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	34°27'25"	44.00'	26.46'	13.64'
LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		40.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 3

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, AND A PORTION OF NORTH PALM CANYON DRIVE AS VACATED BY THE CITY OF PALM SPRINGS BY RESOLUTION OF ABANDONMENT RECORDED NOVEMBER 19, 1991 AS INSTRUMENT NO. 400968. RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;

COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25"" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;

THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1 AND ***THE TRUE POINT OF BEGINNING***;

THENCE NORTH 00°-52'-57" WEST, A DISTANCE OF 305.90 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS SOUTH 28°-38'-27" EAST;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°-27'-25" AND A LENGTH OF 26.46 FEET;

THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 265.39 FEET TO THE WESTERLY LINE OF SAID NORTH PALM CANYON DRIVE, THE FOLLOWING FOUR COURSES BEING ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE;

THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 109.13 FEET;

THENCE SOUTH 09°-47'-34" WEST, A DISTANCE OF 52.21 FEET;

THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 134.87 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 29.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°-58'-25" AND A LENGTH OF 45.54 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND SOUTH LINE OF SAID PARCEL 1;

THENCE SOUTH 89°-50'-25" WEST, ALONG SAID NORTH LINE OF TAHQUITZ CANYON WAY A DISTANCE OF 241.59 FEET TO THE TRUE POINT OF BEGINNING.

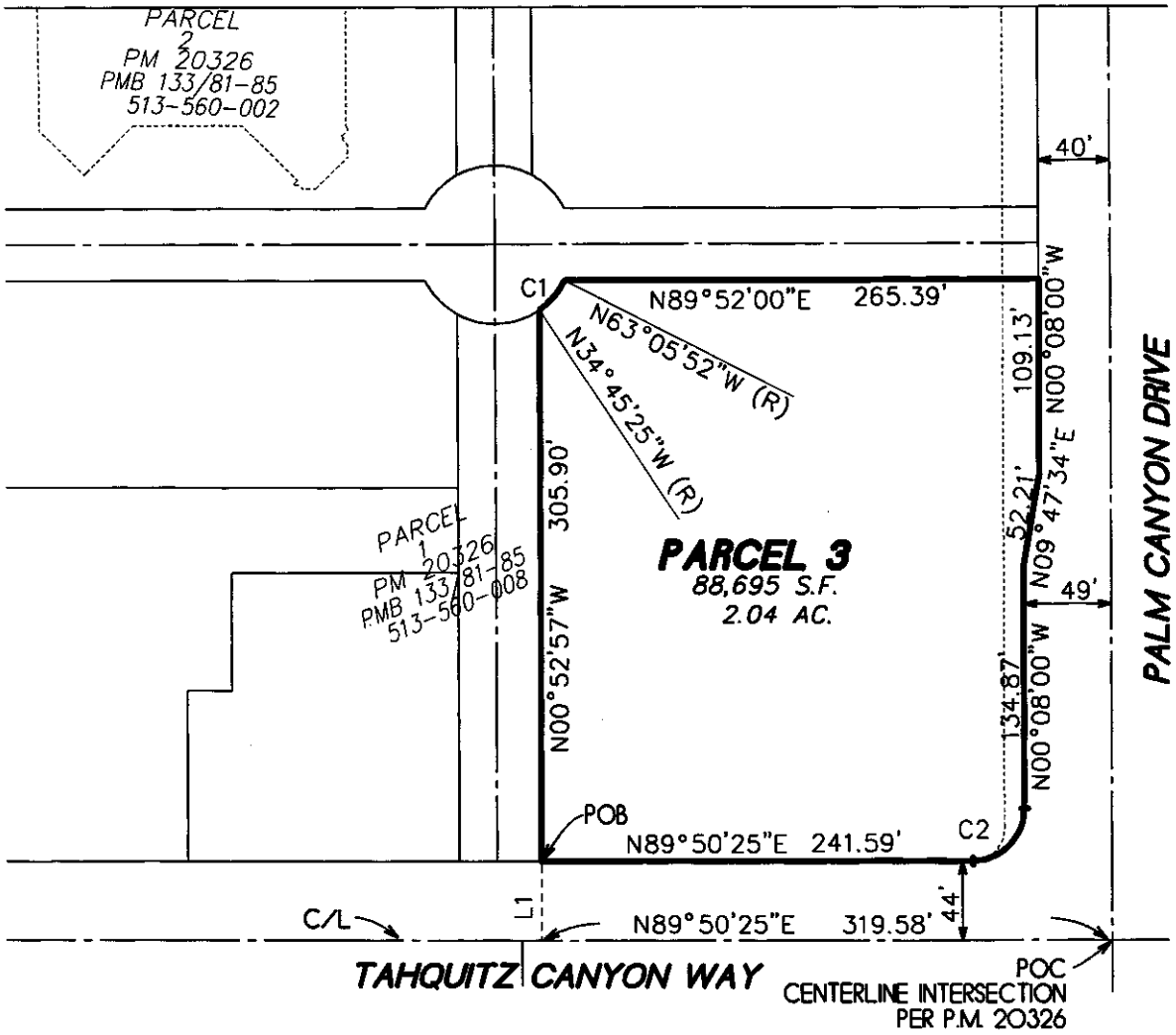
CONTAINING 89,313 SQ. FT./ 2.05 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	34°27'25"	44.00'	26.46'	13.64'
C2	89°58'25"	29.00'	45.54'	28.99'
LINE TABLE				
L1	N00°08'00"W		44.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	-
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 4

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°50'-25" WEST ALONG SAID COMMON LINE, A DISTANCE OF 46.00 TO ***THE TRUE POINT OF BEGINNING;***
THENCE NORTH 00°-08'-00" WEST A DISTANCE OF 208.66 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 126.88 FEET;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 113.27 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 24.79 FEET;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 95.46 FEET TO THE SOUTH LINE OF SAID PARCEL 1;
THENCE NORTH 89°-50'-25" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 151.67 FEET TO THE TRUE POINT OF BEGINNING.

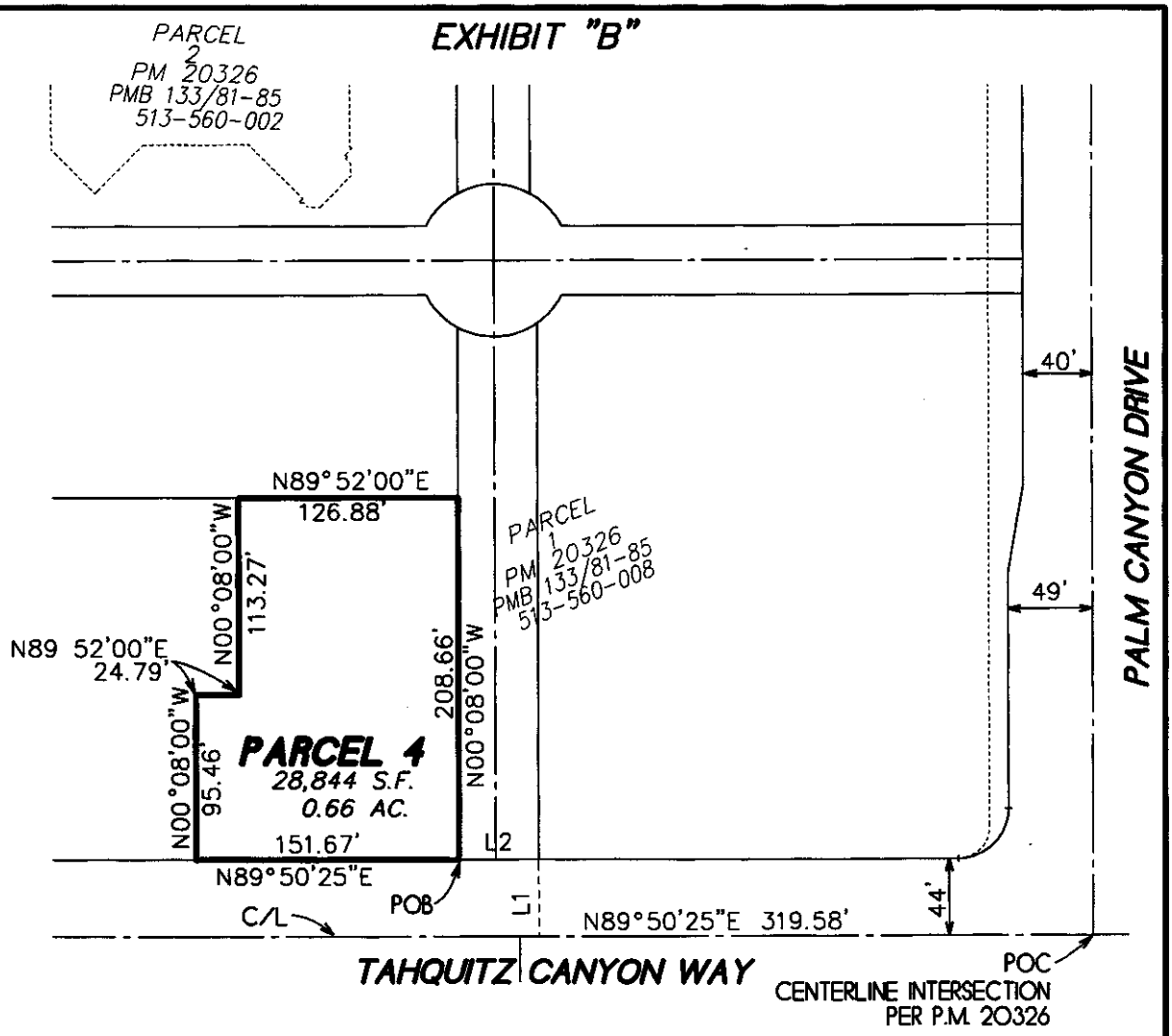
CONTANING 28,844 S.F./0.66 AC.

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/27/11 WO. 11-105

EXHIBIT "B"



PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

LINE TABLE		
#	DELTA/BRG	LENGTH
L1	N00°08'00"W	44.00'
L2	N89°50'25"E	46.00'

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 5

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°-50'-25" WEST ALONG SAID COMON LINE, A DISTANCE OF 46.00 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 208.66 FEET ***TO THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING NORTH 00°- 08'-00" WEST, A DISTANCE OF 97.23 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS SOUTH 28°-22'-27" WEST;
THENCE NORRHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°-27'-25" AND A LENGTH OF 26.46 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 251.09 FEET;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 115.90 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 269.28 FEET TO THE TRUE POINT OF BEGINNING.

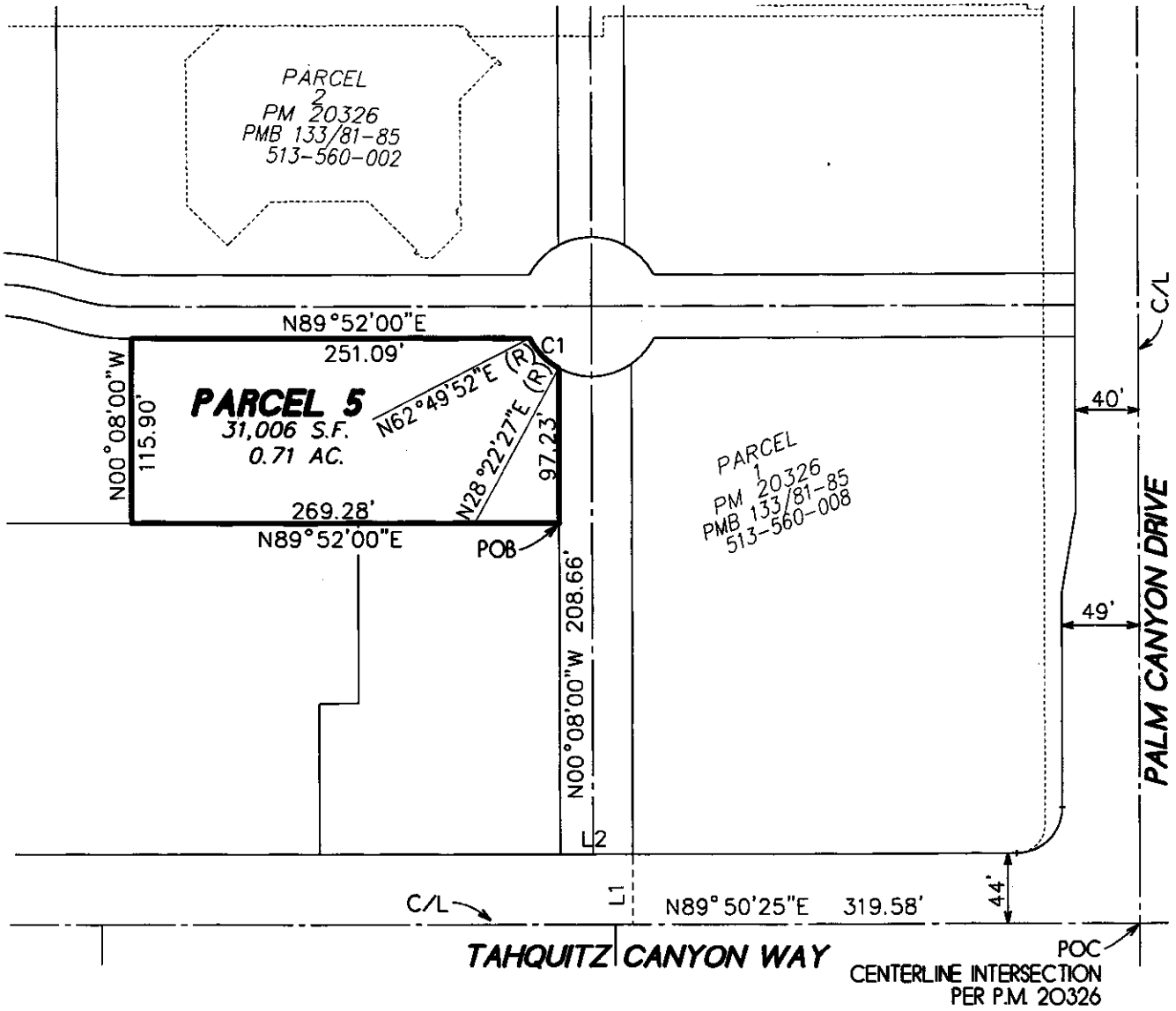
CONTAINING 31,006 SQ. FT./ 0.71 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	34°27'25"	44.00'	26.46'	13.64'
LINE TABLE				
L1	N00°08'00"W		44.00'	
L2	N89°50'25"E		46.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 6

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE, A DISTANCE OF 40.00 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 62° –49'-52"EAST;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°-28'-18" AND A LENGTH OF 70.24 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 162.49 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 315.50 FEET
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 172.09 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 152.92 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 15°-08'-02" EAST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°-43'-07" AND A LENGTH OF 9.92 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 112.92 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 37.42 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 251.09 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 63°-05'-52" WEST;
THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°-27'-25" AND A LENGTH OF 26.46 FEET AND THE TRUE POINT OF BEGINNING.

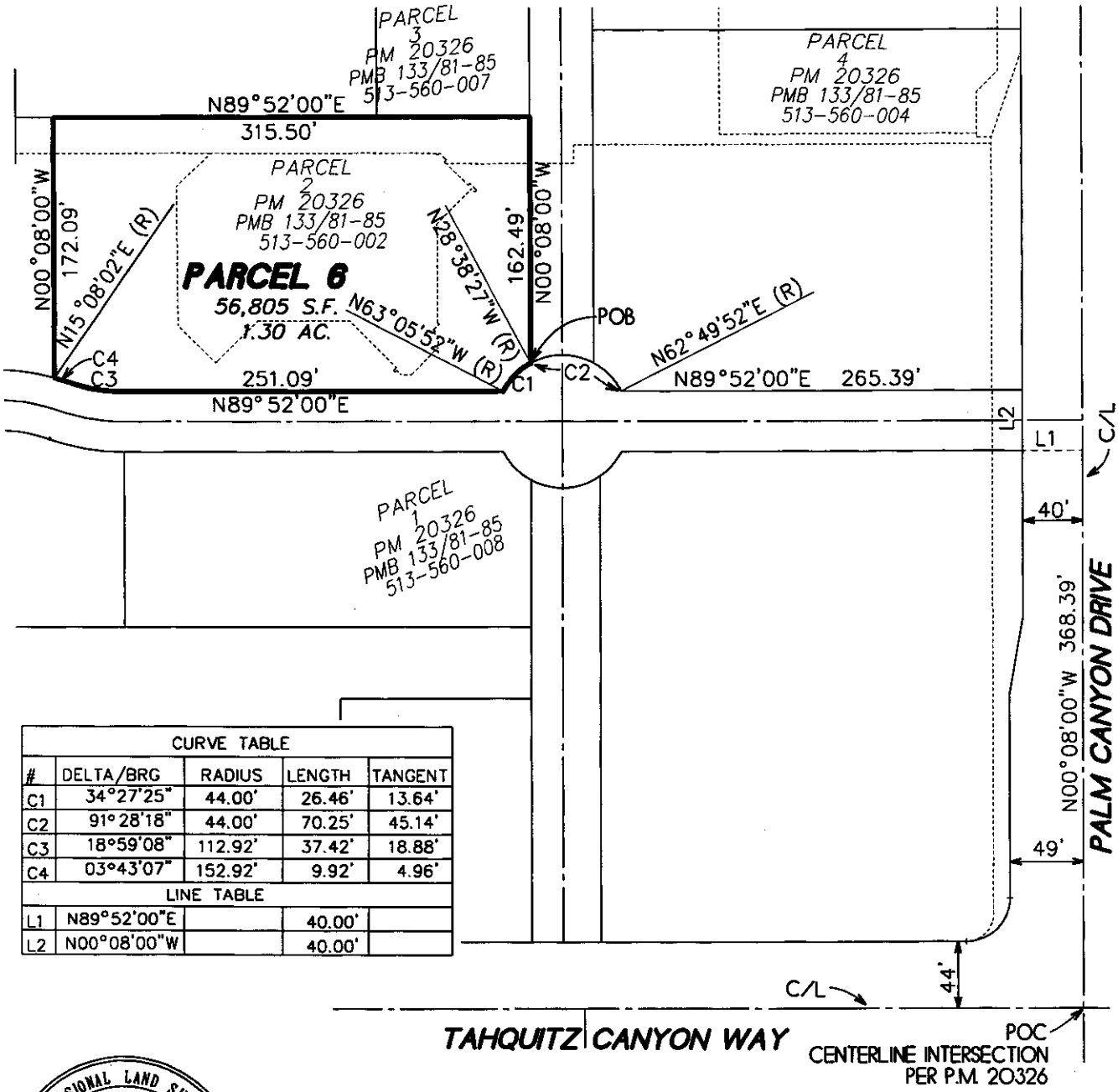
CONTAINING 56,805 SQ.FT./ 1.30 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/25/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	34°27'25"	44.00'	26.46'	13.64'
C2	91°28'18"	44.00'	70.25'	45.14'
C3	18°59'08"	112.92'	37.42'	18.88'
C4	03°43'07"	152.92'	9.92'	4.96'
LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		40.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

100 50 0 100 200
SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 7

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE, A DISTANCE OF 40.00 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 62° –49'-52"EAST;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°-28'-18" AND A LENGTH OF 70.24 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 162.49 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING NORTH 00°-08'-00" WEST A DISTANCE OF 77.45 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1206.16 FEET;
THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05'-13'-29" AND A LENGTH OF 109.99 FEET TO A POINT ON THE EASTERLY EXTENTION OF THE NORTH LINE OF SAID PARCEL 3;
THENCE SOUTH 89°-50'-25 " WEST ALONG SAID EXTENTION AND THE NORTH LINE OF SAID PARCEL 3, A DISTANCE OF 106.53 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 187.24 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 101.52 FEET TO THE POINT OF BEGINNING.

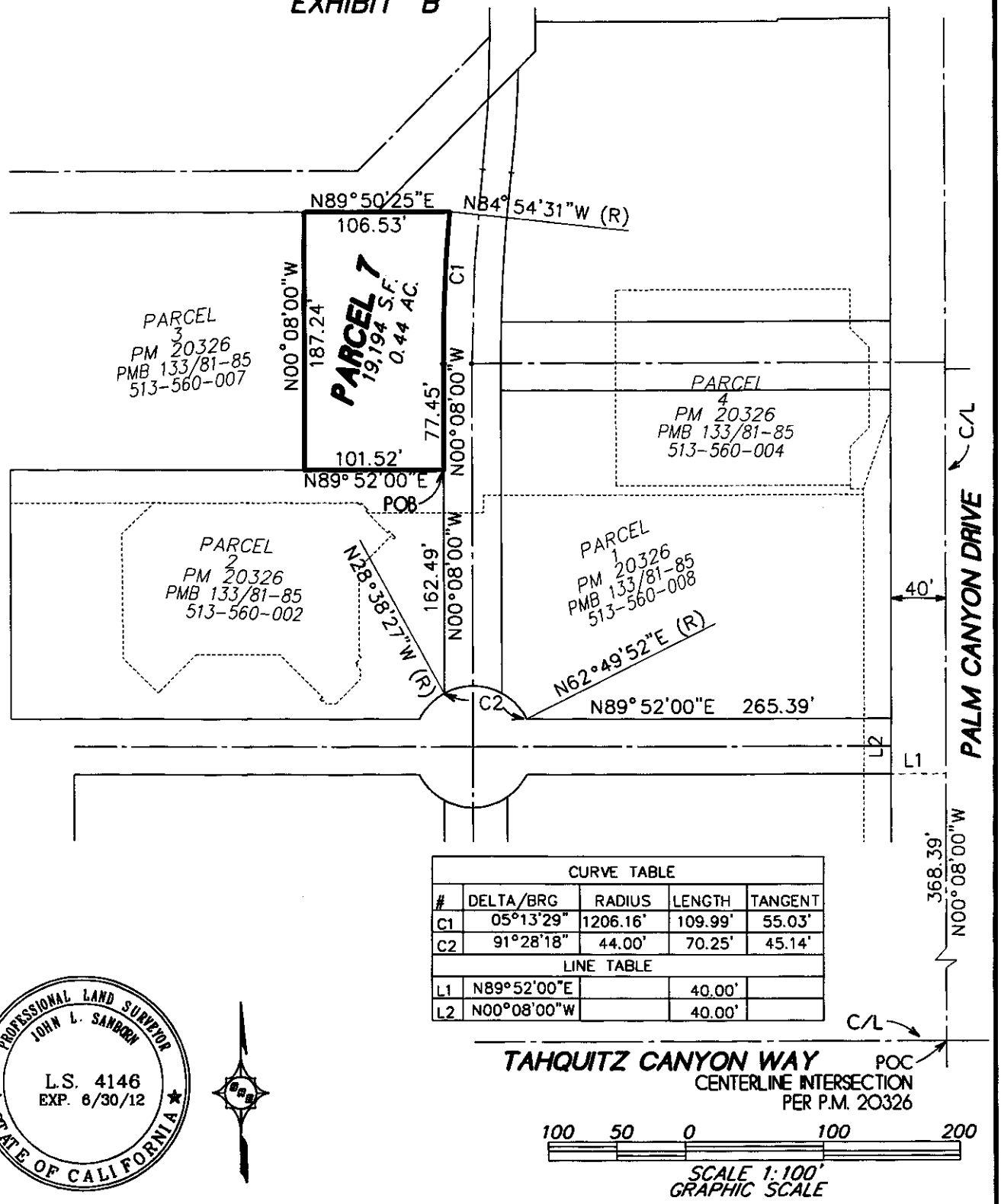
CONTAINING 19,194 SQ. FT./ 0.44 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	05°13'29"	1206.16'	109.99'	55.03'
C2	91°28'18"	44.00'	70.25'	45.14'
LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		40.00'	

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	-
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 8

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF NORTH PALM CANYON DRIVE, A DISTANCE OF 40.00 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 44.00 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 62° –49'-52"EAST;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°-28'-18" AND A LENGTH OF 70.24 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 162.49 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 101.52 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 187.24 FEET TO THE NORTH LINE OF SAID PARCEL 3, THE FOLLOWING THREE COURSES BEING ALONG THE NORTH AND WEST LINE OF SAID PARCEL 3;
THENCE SOUTH 89°-50'-25 " WEST, A DISTANCE OF 278.99 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET;
THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°-58'-25" AND A LENGTH OF 31.41 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 167.11 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 298.98 FEET TO THE POINT OF BEGINNING.

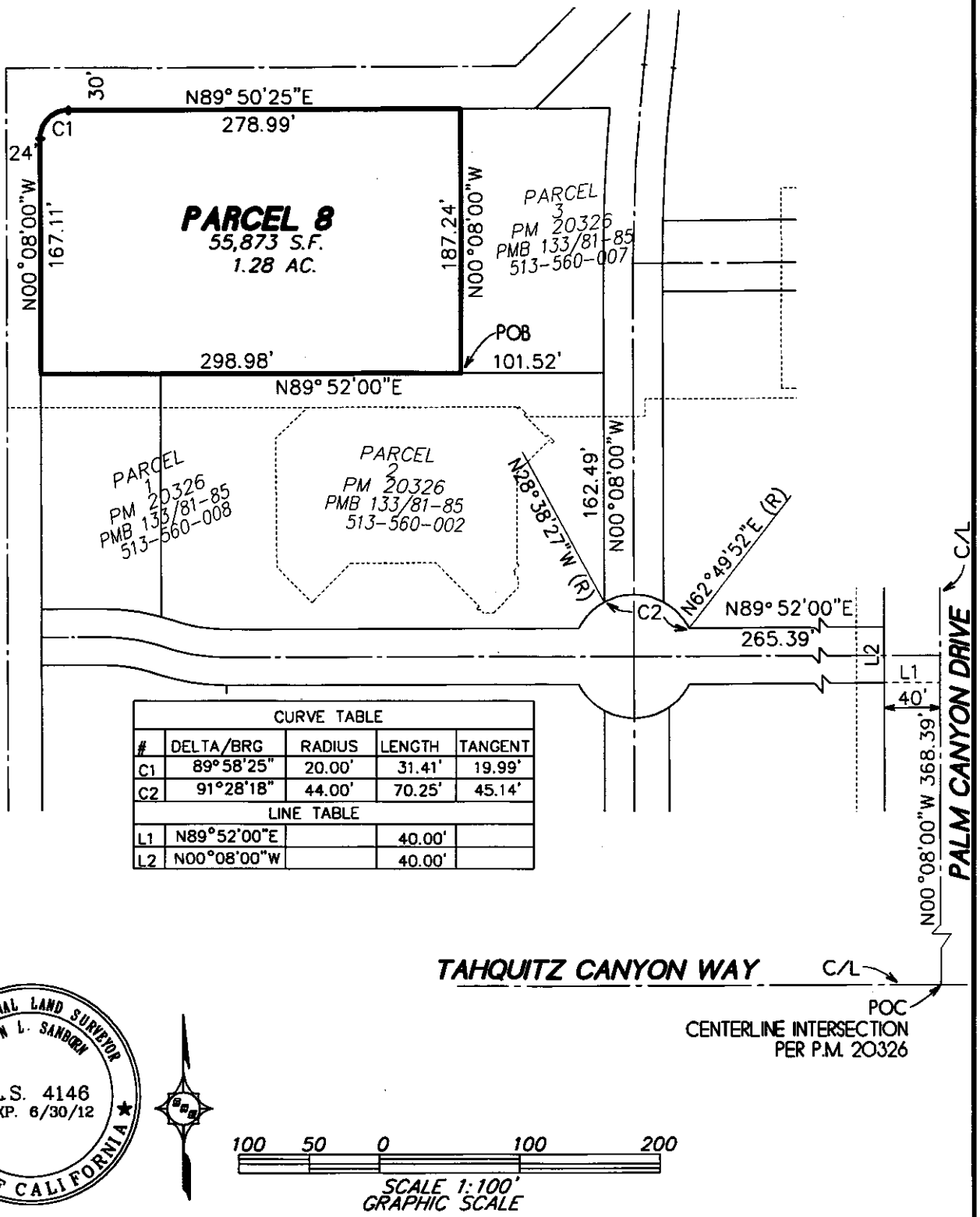
CONTAINING 55,873 SQ. FT./ 1.28 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/25/11 WO. 11-105

EXHIBIT "B"



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	89°58'25"	20.00'	31.41'	19.99'
C2	91°28'18"	44.00'	70.25'	45.14'
LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		40.00'	

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	–
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 9

ALL THAT PORTION OF PARCEL 1 AND PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°-50'-25" WEST ALONG SAID COMMON LINE, A DISTANCE OF 46.00 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 208.66 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 400.50 FEET TO THE WEST LINE OF SAID PARCEL 1 AND THE EAST LINE OF MUSEUM DRIVE AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 00°-08'-00" WEST ALONG SAID COMMON LINE, A DISTANCE OF 170.36 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING NORTH 00°-08'-00" WEST ALONG SAID COMMON LINE AND WEST LINE OF SAID PARCEL 1 AND PARCEL 3, A DISTANCE OF 166.70 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 85.00 FEET;
THENCE SOUTH 00°-08'-00" WEST, A DISTANCE OF 172.09 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 152.92 FEET, A RADIAL BEARING PASSES THROUGH SAID CURVE BEARS NORTH 15°-08'-02" EAST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°-16'-02" AND A LENGTH OF 40.75 FEET
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 44.73 FEET TO THE TRUE POINT OF BEGINNING.

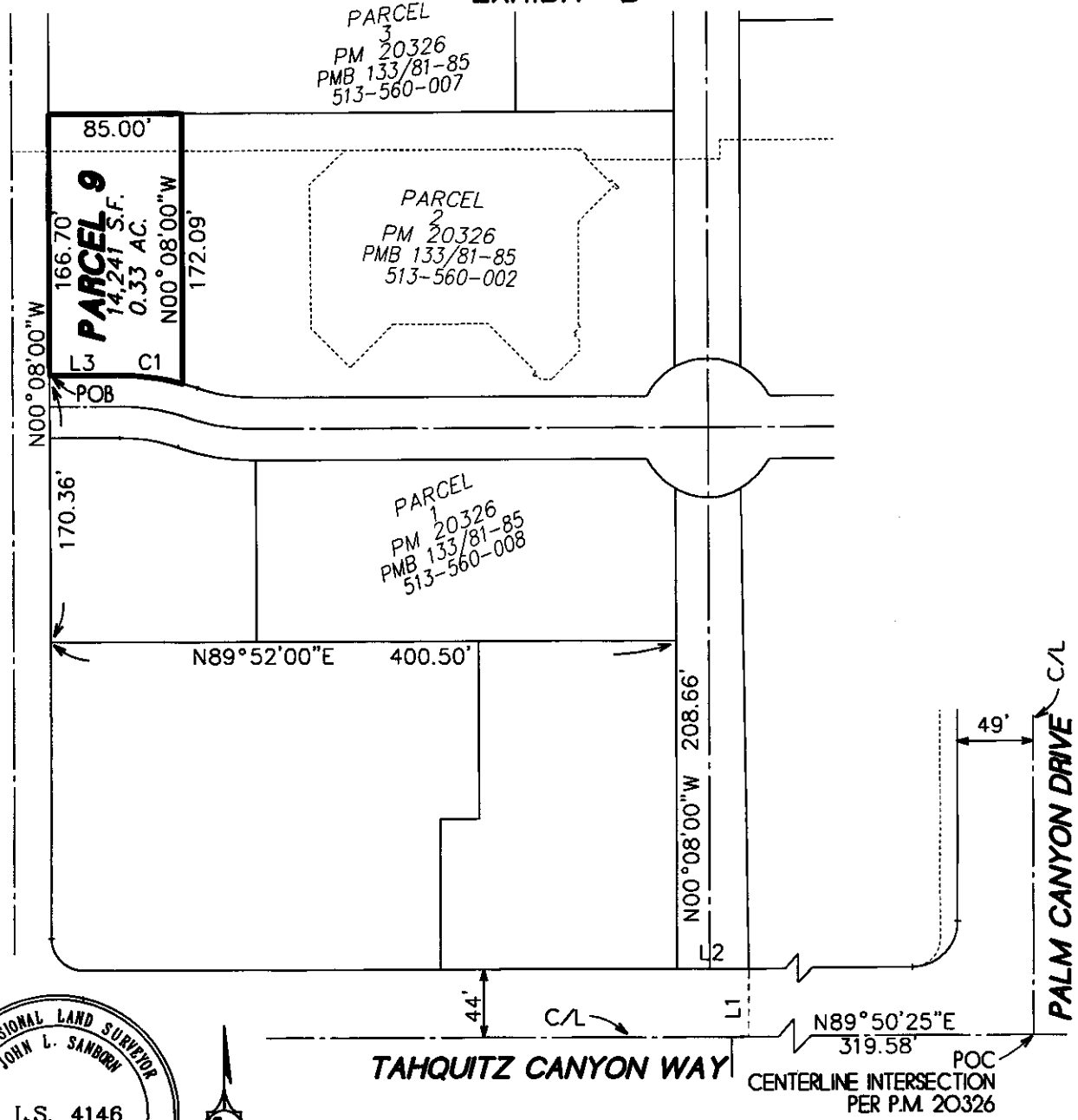
CONTAINING 14,241 SQ. FT./ 0.33 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

EXHIBIT "B"



PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	15°16'02"	152.92'	40.75'	20.50'
LINE TABLE				
L1	N00°08'00"W		44.00'	
L2	N89°50'25"E		46.00'	
L3	N89°52'00"E		44.73'	

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY: D.B.	SCALE: 1" = 100'	FILE NO.: –
LEGAL DESCRIPTION: SEE EXHIBIT "A"	CHECKED BY: J.L.S.	W.O. # 11-105	SHEET NO.: 1 OF 1

EXHIBIT "A"

PARCEL 10

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°-50'-25" WEST ALONG SAID COMMON LINE, A DISTANCE OF 46.00 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 208.66 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 269.28 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING SOUTH 89°-52'-00" WEST, A DISTANCE OF 131.22 FEET TO THE WEST LINE OF SAID PARCEL 1 AND THE EAST LINE OF MUSEUM DRIVE AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 00°-08'-00" WEST ,ALONG SAID COMMON LINE, A DISTANCE OF 130.36 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 44.73 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 112.92 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 37.42 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 152.92 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°-59'-08" AND A LENGTH OF 50.67 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 115.90 FEET TO THE TRUE POINT OF BEGINNING.

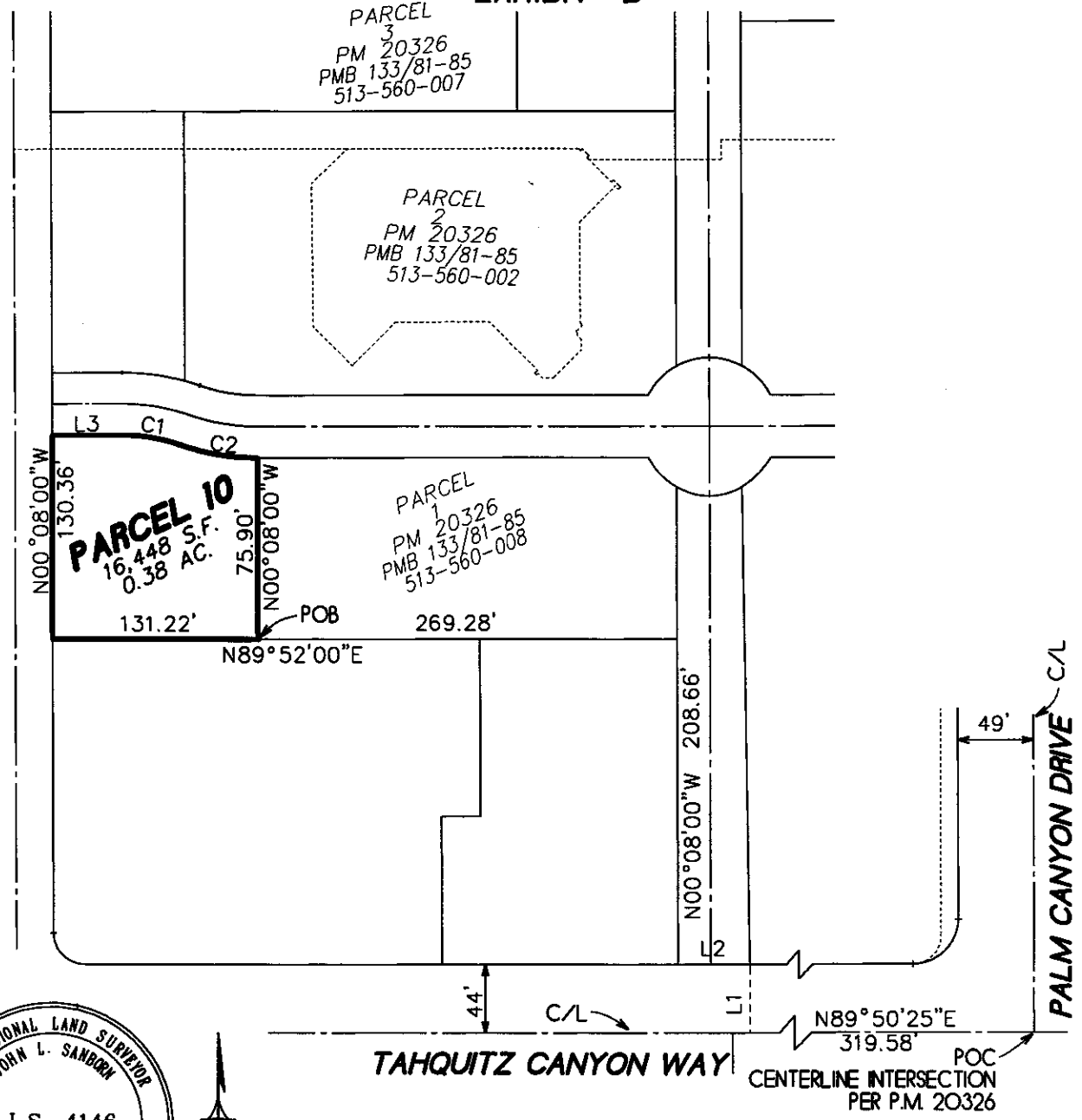
CONTAINING 16,448 SQ. FT./ 0.38 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-10

EXHIBIT "B"



PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	18°59'08"	112.92'	37.42'	18.88'
C2	18°59'08"	152.92'	50.67'	25.57'
LINE TABLE				
L1	N00°08'00"W		44.00'	
L2	N89°50'25"E		46.00'	
L3	N89°52'00"E		44.73'	

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

EXHIBIT "B"	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:	D.B.	1" = 100'	--
SEE EXHIBIT "A"	CHECKED BY:	W.O. #	SHEET NO.:
	J.L.S.	11-105	1 OF 1

EXHIBIT "A"

PARCEL 11

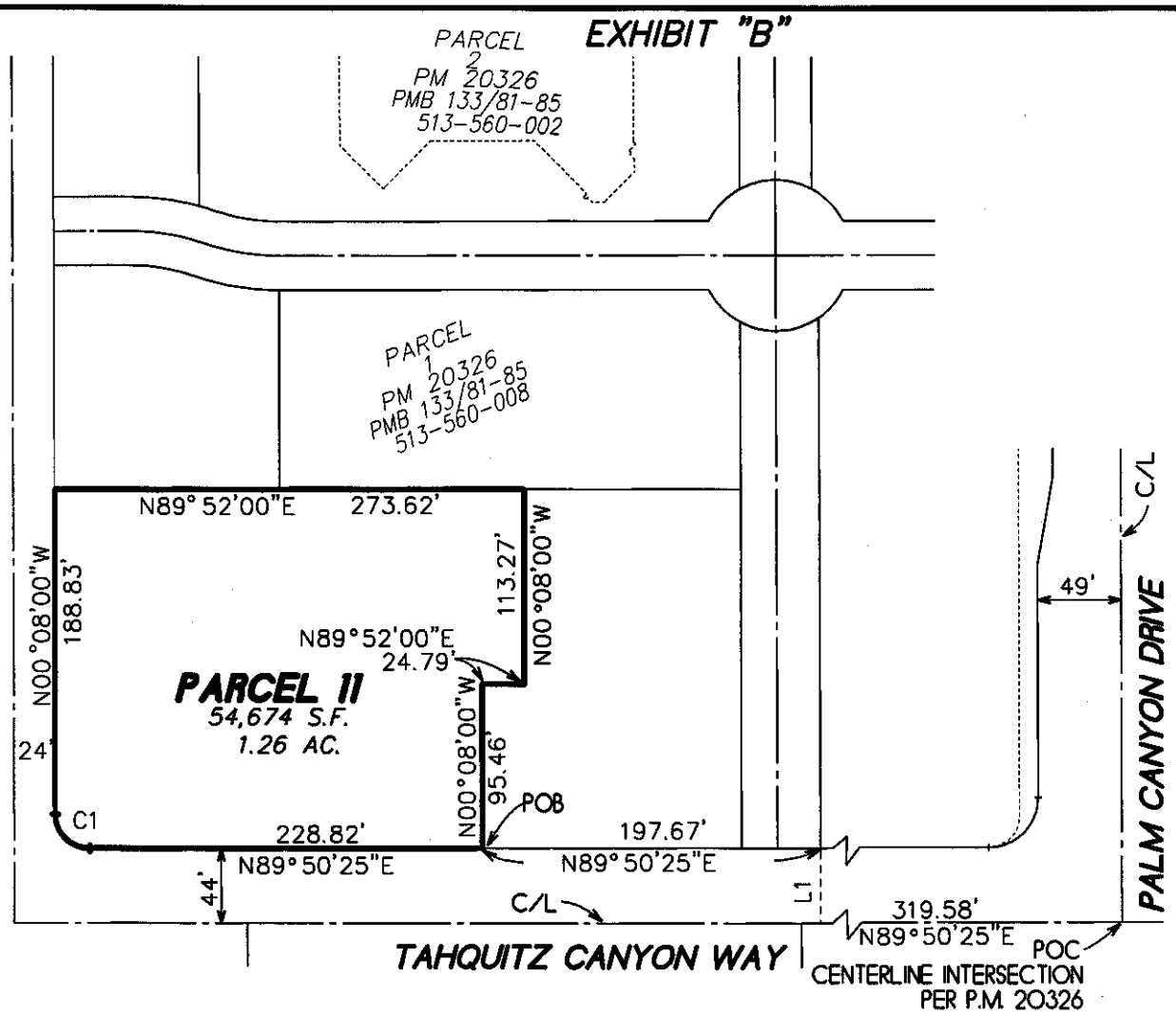
ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINR OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°-50'-25" WEST ALONG SAID COMMON LINE, A DISTANCE OF 197.67 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 95.46 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 24.79 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 113.27 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 273.62 FEET TO THE WEST LINE OF SAID PARCEL 1, THE FOLLOWING THREE COURSES BEING ALONG THE WEST AND SOUTH LINES OF SAID PARCEL 1;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 188.83 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°-01'-35" AND A LENGTH OF 31.43 FEET;
THENCE NORTH 89°-50'-25" EAST, A DISTANCE OF 228.82 FEET TO THE TRUE POINT OF BEGINNING.;

CONTAINING 54,674 SQ. FT./ 1.26 AC. MORE OR LESS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/20/11 WO. 11-105



CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	90°01'35"	20.00'	31.43'	20.01'
LINE TABLE				
L1	N00°08'00"W		44.00'	

EXHIBIT "B"	DESIGN BY: D.B.	SCALE: 1" = 100'	FILE NO.: –
LEGAL DESCRIPTION: SEE EXHIBIT "A"	CHECKED BY: J.L.S.	W.O. # 11-105	SHEET NO.: 1 OF 1

EXHIBIT "A"

AIR-SPACE PARCEL 1

ALL THAT PORTION OF PARCEL 3 AND PARCEL 4 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 647.00 FEET;
THENCE SOUTH 89°52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE AND THE WEST LINE OF SAID PARCEL 3;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE OF PALM CANYON DRIVE AND EAST LINE OF SAID PARCEL 3, A DISTANCE OF 58.96 FEET;
THENCE SOUTH 89°-52'-00" WEST A DISTANCE OF 11.49 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING SOUTH 89°-52'-00" WEST, A DISTANCE OF 271.44 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 88°-12'-56" WEST;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°-03'-29" AND A LENGTH OF 62.13;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 14.69 FEET;
THENCE NORTH 00°-08"-00" WEST, A DISTANCE OF 106.79 FEET;
THENCE NORTH 44°-52'-00" EAST, A DISTANCE OF 26.16 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 21.27 FEET;
THENCE NORTH 89°-54'-13" EAST, A DISTANCE OF 218.22 FEET;
THENCE NORTH 44°-52'-00" EAST, A DISTANCE OF 2.77 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 24.33 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 195.06 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 10.00 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 15.33 FEET TO THE TRUE POINT OF BEGINNING.

SEE EXHIBIT "B" FOR VERTICAL LIMITS

SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

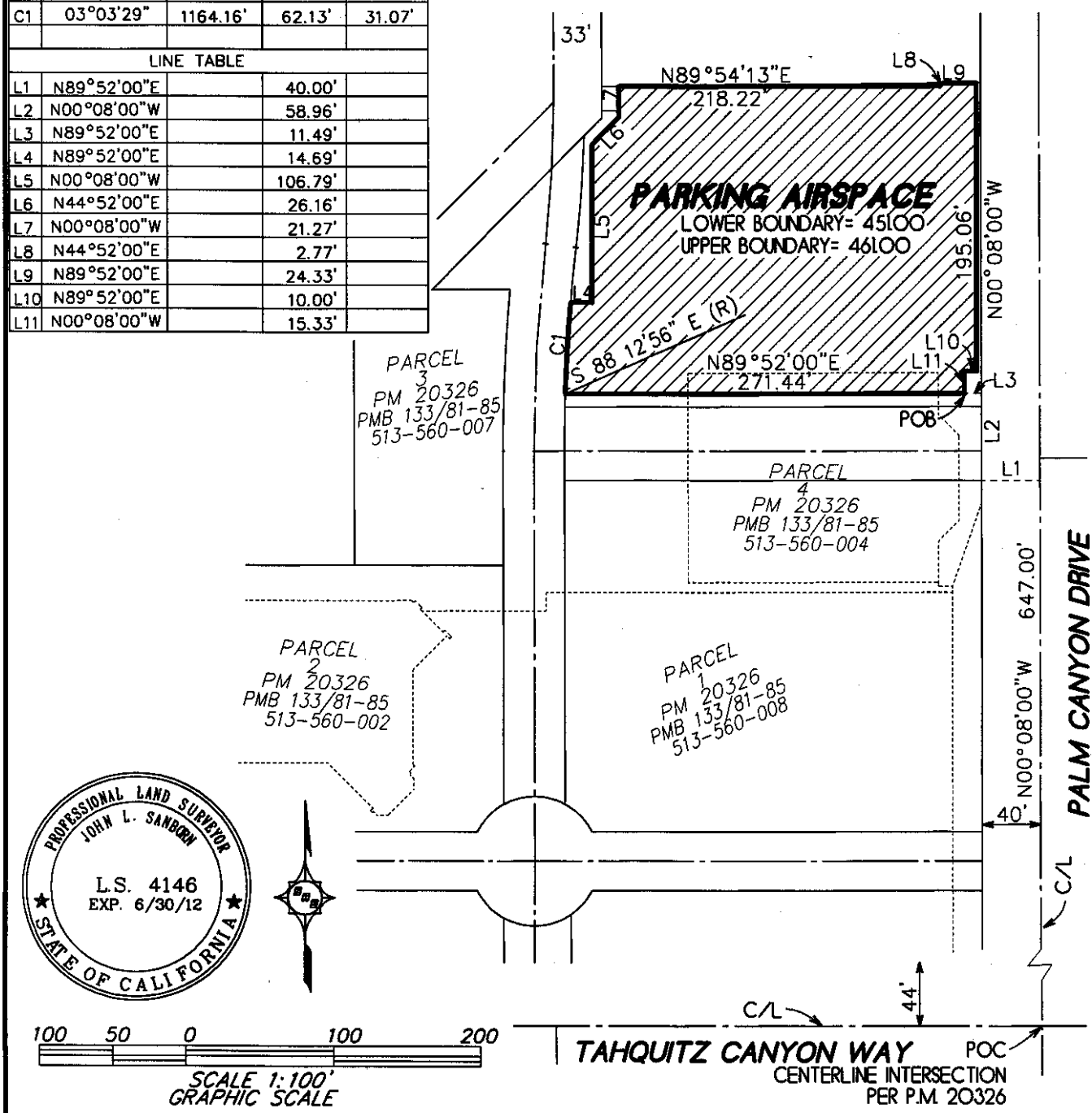
PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/27/11 WO. 11-105

EXHIBIT "B"

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	03°03'29"	1164.16'	62.13'	31.07'

LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		58.96'	
L3	N89°52'00"E		11.49'	
L4	N89°52'00"E		14.69'	
L5	N00°08'00"W		106.79'	
L6	N44°52'00"E		26.16'	
L7	N00°08'00"W		21.27'	
L8	N44°52'00"E		2.77'	
L9	N89°52'00"E		24.33'	
L10	N89°52'00"E		10.00'	
L11	N00°08'00"W		15.33'	



CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

DATE

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

7987
P.L.S.

PARKING AREA AIRSPACE

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

AIRSPACE PARCEL 4

ALL THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY AS SHOWN ON SAID PARCEL MAP, THENCE SOUTH 89° –50'-25" WEST ALONG THE CENTERLINE OF SAID TAHQUITZ CANYON WAY, A DISTANCE OF 319.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 44.00 FEET TO THE NORTH LINE OF SAID TAHQUITZ CANYON WAY AND THE SOUTH LINE OF SAID PARCEL 1;
THENCE SOUTH 89°-50'-25" WEST ALONG SAID COMMON LINE, A DISTANCE OF 46.00 FEET;
THENCE NORTH 00°-08'-00" WEST A DISTANCE OF 8.66 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING NORTH 00°-08'-00" WEST, A DISTANCE OF 200.00 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 126.88 FEET;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 113.27 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 24.79 FEET;
THENCE SOUTH 00°-08'-00"EAST, A DISTANCE OF 86.73 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 151.67 FEET TO THE TRUE POINT OF BEGINNING.

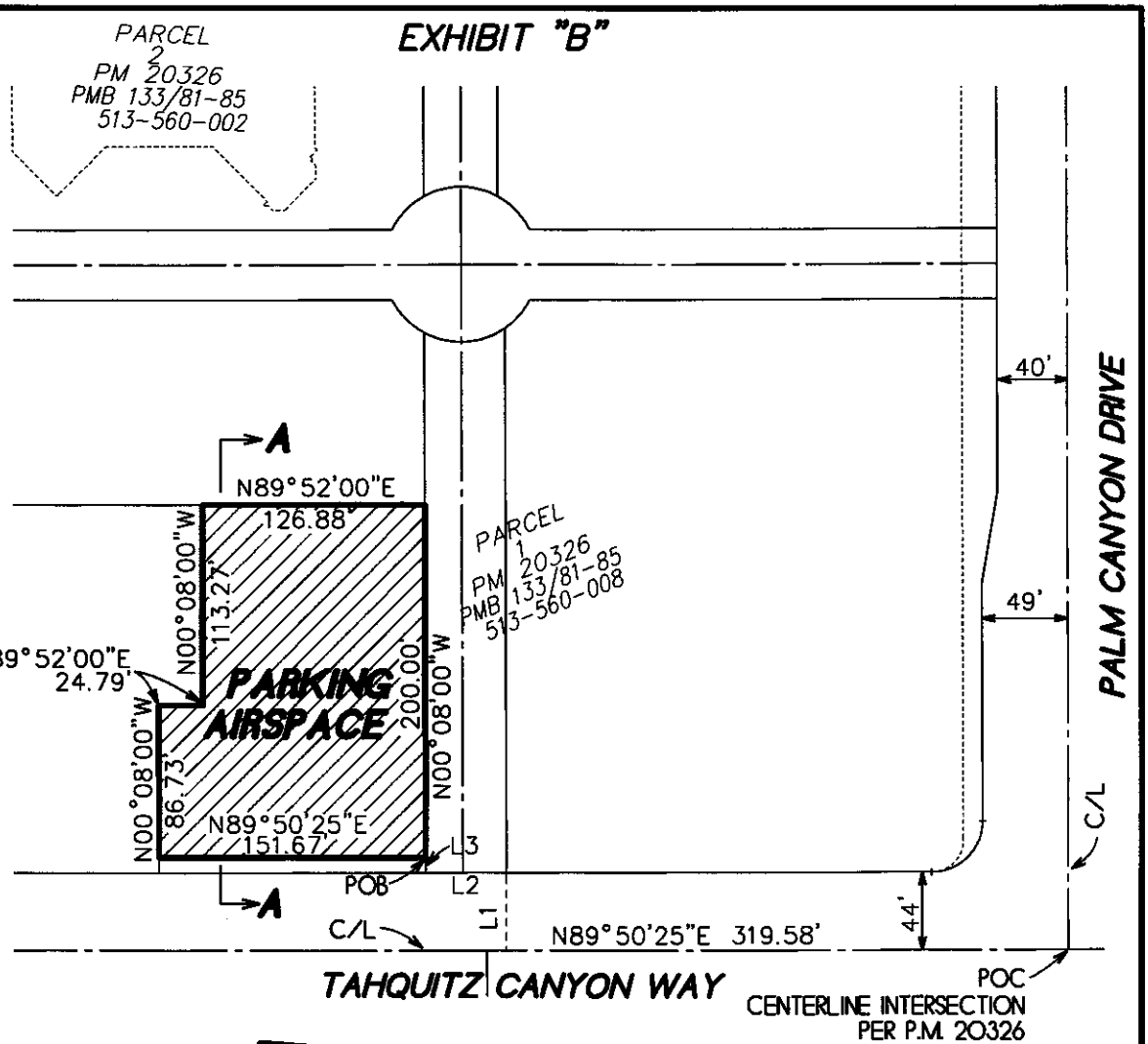
SEE EXHIBIT "B" FOR VERTICAL LIMITS

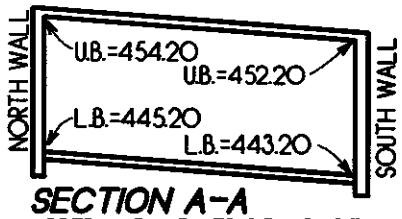
SEE EXHIBIT "B" FOR DEPICTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/27/11 WO. 11-105

EXHIBIT "B"





SECTION A-A
UPPER AND LOWER BOUNDARIES

LINE TABLE		
#	DELTA/BRG	LENGTH
L1	N00°08'00"W	44.00'
L2	N89°50'25"E	46.00'
L3	N00°08'00"W	8.66'

PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

100 50 0 100 200
SCALE 1:100'
GRAPHIC SCALE

CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

DATE

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

7987
P.L.S.

PARKING AREA AIRSPACE

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

AIR-SPACE PARCEL 7

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 368.39 FEET;
THENCE SOUTH 89°-52'-00" WEST, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF NORTH PALM CANYON DRIVE;
THENCE NORTH 00°-08'-00" WEST ALONG SAID WEST LINE, A DISTANCE OF 40.00 FEET;
THENCE CONTINUING SOUTH 89°-52'-00" WEST, A DISTANCE OF 265.39 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET
THENCE NORTHESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°-28'-18" AND A LENGTH OF 70.24 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 180.72 FEET TO ***THE TRUE POINT OF BEGINNING;***
THENCE CONTINUING NORTH 00°-08'-00" WEST A DISTANCE OF 59.23 FEET TO THE BEGINNING OF A TANGENT CUEVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1206.16 FEET;
THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05'-13'-29" AND A LENGTH OF 109.99 FEET;
THENCE SOUTH 89°-50'-25 " WEST, A DISTANCE OF 6.60 FEET;
THENCE SOUTH 44°-52'-00" WEST, A DISTANCE OF 12.48 FEET;
THENCE SOUTH 89°-52'-00 WEST, A DISTANCE OF 91.10 FEET;
THENCE SOUTH 00°-08'-00" EAST, A DISTANCE OF 177.41 FEET;
THENCE NORTH 89°-52'-00" EAST, A DISTANCE OF 71.65 FEET;
THENCE NORTH 59°-53'-30" EAST, A DISTANCE OF 34.48 FEET TO THE POINT OF BEGINNING.

SEE EXHIBIT "B" FOR VERTICAL LIMITS

SEE EXHIBIT "B" FOR DEPECTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/21/11 WO. 11-105

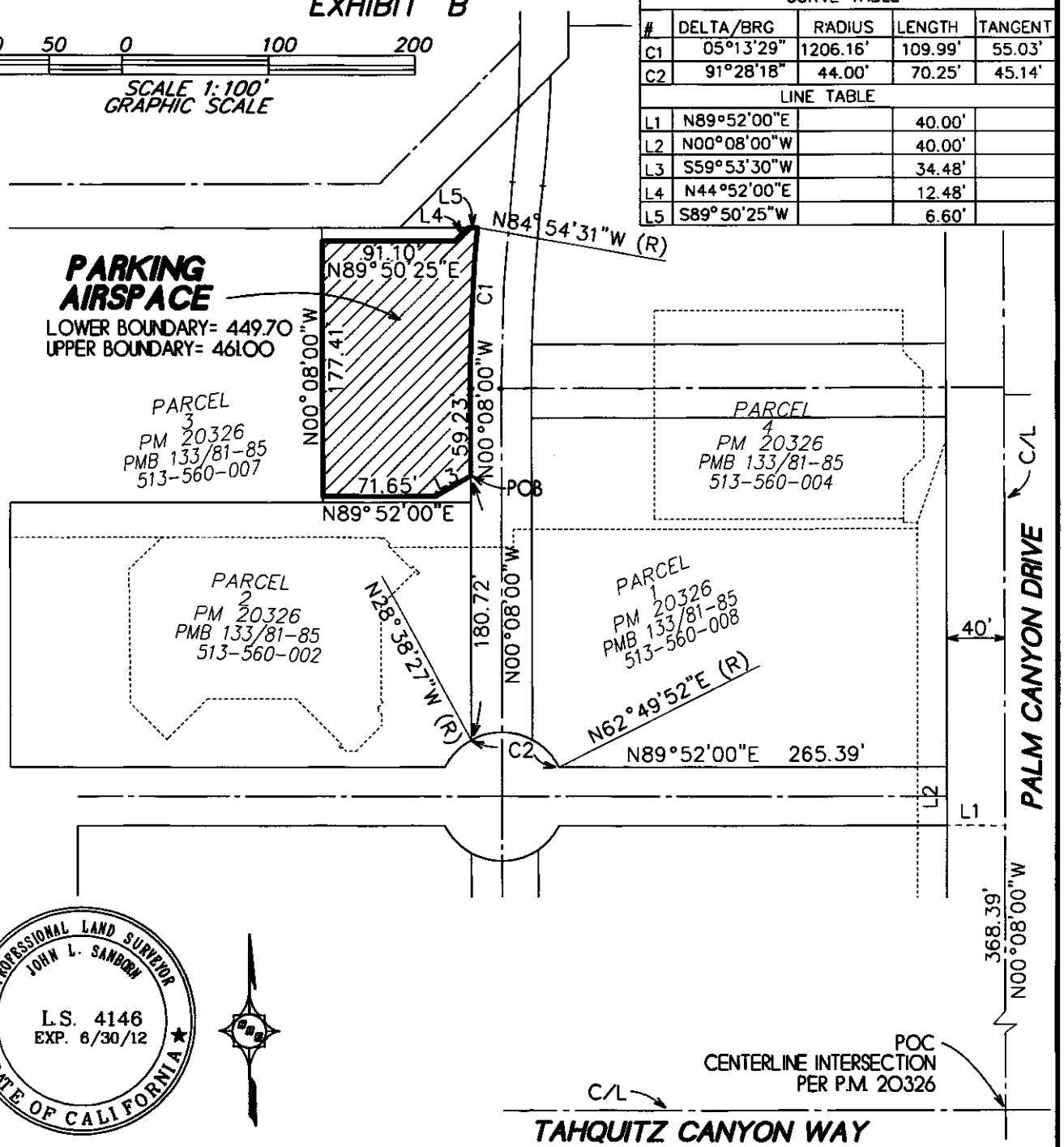
EXHIBIT "B"

100 50 0 100 200

SCALE 1:100'
GRAPHIC SCALE

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	05°13'29"	1206.16'	109.99'	55.03'
C2	91°28'18"	44.00'	70.25'	45.14'

LINE TABLE				
L1	N89°52'00"E		40.00'	
L2	N00°08'00"W		40.00'	
L3	S59°53'30"W		34.48'	
L4	N44°52'00"E		12.48'	
L5	S89°50'25"W		6.60'	



PROFESSIONAL LAND SURVEYOR
JOHN L. SANBORN
L.S. 4146
EXP. 6/30/12
STATE OF CALIFORNIA

CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

APPROVED:

DATE

ASST. DIRECTOR OF PUBLIC WORKS/
ASST. CITY ENGINEER

7987
P.L.S.

PARKING AREA AIRSPACE

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	-
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

EXHIBIT "A"

AIR-SPACE MECHANICAL ROOM

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 20326 AS FILED IN PARCEL MAP BOOK 133 AT PAGES 81 THROUGH 85 INCLUSIVE, RIVERSIDE COUNTY RECORDS, DESCRIBED AS FOLLOWS;
COMMENCING AT THE CENTERLINE INTERSECTION OF NORTH PALM CANYON DRIVE AND TAHQUITZ WAY AS SHOWN ON SAID PARCEL MAP, THENCE NORTH 00°-08'-00" WEST ALONG THE CENTERLINE OF SAID NORTH PALM CANYON DRIVE, A DISTANCE OF 647.00 FEET;
THENCE SOUTH 89°052'-00" WEST, A DISTANCE OF 323.58 FEET;
THENCE NORTH 00°-08'-00" WEST, A DISTANCE OF 20.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1164.16 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°-58'-33" AND A LENGTH OF 101.10 FEET TO **THE TRUE POINT OF BEGINNING;**
THENCE CONTINUING NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°-50'-24" AND A LENGTH OF 37.39 FEET THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 831.03 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°-54'-16" AND A LENGTH OF 27.62 FEET;
THENCE SOUTH 44°-52'-00" WEST, A DISTANCE OF 78.92 FEET;
THENCE NORTH 89°-50'-25" EAST, A DISTANCE OF 7.77 FEET TO A POINT ON A NONTANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1206.16 FEET, A RADIAL BEARING PASSES THROUGH SAID POINT BEARS NORTH 84°54'-31" WEST;
THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°-25'-21" AND A LENGTH OF 8.89 FEET;
THENCE NORTH 89°-52'-00" EAST A DISTANCE OF 42.15 FEET TO THE TRUE POINT OF BEGINNING.

SEE EXHIBIT "B" FOR VERTICAL LIMITS

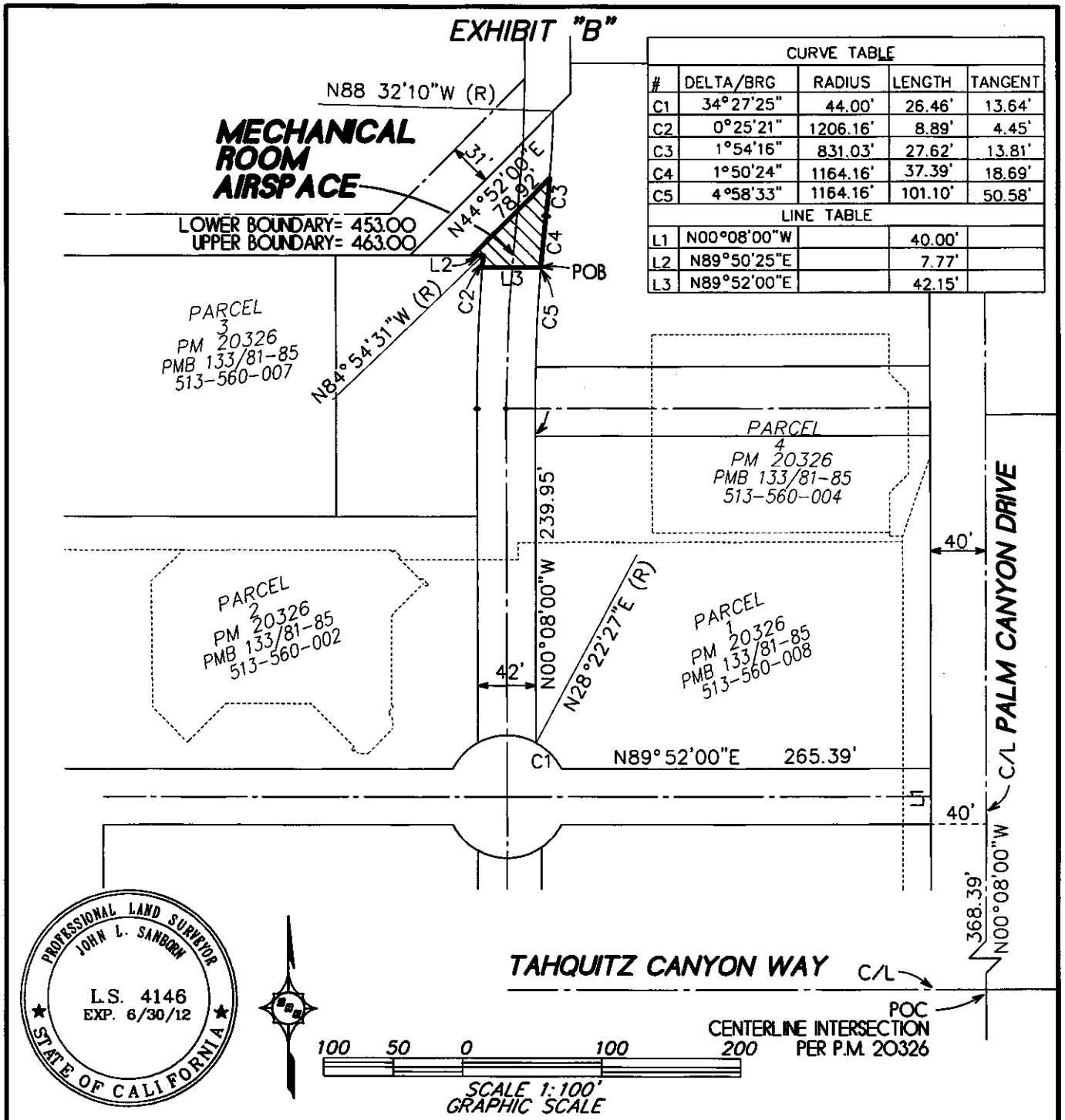
SEE EXHIBIT "B" FOR DEPECTION ATTACHED HERETO AND MADE A PART HEREIN.

PREPARED BY
SANBORN A/E, INC.

JOHN L. SANBORN PLS 4146
07/27/11 WO. 11-105

EXHIBIT "B"

CURVE TABLE				
#	DELTA/BRG	RADIUS	LENGTH	TANGENT
C1	34°27'25"	44.00'	26.46'	13.64'
C2	0°25'21"	1206.16'	8.89'	4.45'
C3	1°54'16"	831.03'	27.62'	13.81'
C4	1°50'24"	1164.16'	37.39'	18.69'
C5	4°58'33"	1164.16'	101.10'	50.58'
LINE TABLE				
L1	N00°08'00"W		40.00'	
L2	N89°50'25"E		7.77'	
L3	N89°52'00"E		42.15'	



CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING DEPARTMENT

APPROVED:

ASST. DIRECTOR OF PUBLIC WORKS/ ASST. CITY ENGINEER — DATE

7987 P.L.S.

MECHANICAL ROOM AIRSPACE

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE:	FILE NO.:
D.B.	1" = 100'	–
CHECKED BY:	W.O. #	SHEET NO.:
J.L.S.	11-105	1 OF 1

CITY COUNCIL STAFF REPORT

DATE: ~~July 20, 2011~~ UNFINISHED BUSINESS

SUBJECT: APPROVE A PROJECT FINANCING AGREEMENT BETWEEN THE CITY OF PALM SPRINGS AND PALM SPRINGS PROMENADE, LLC, FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE

FROM: David H. Ready, City Manager

BY: Community and Economic Development

SUMMARY

The City Council will consider approving a Project Financing Agreement for the redevelopment of the Desert Fashion Plaza. The proposed Agreement is the result of recent negotiations with Palm Springs Promenade, LLC (the "Developer") and City staff for the redevelopment of the property.

Pursuant to the proposed Agreement, the City would acquire the public areas and the parking structure, which will assist the Developer to provide financing for a portion of the development project. In addition, the City would undertake the construction of all public streets and infrastructure on the site. The acquired properties include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) two possible "museum expansion" sites; (4) the improved streets created by the project described as the Museum Street, Andreas Road and the Belardo extension; and (5) new public restrooms.

RECOMMENDATION:

1. Adopt Resolution No. ___, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A PROJECT FINANCING AGREEMENT WITH PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE, COMMONLY KNOWN AS THE DESERT FASHION PLAZA."

STAFF ANALYSIS:

The purpose of the Agreement is to facilitate the redevelopment of the Desert Fashion Plaza located at the center of Downtown. The redevelopment of this center has been a priority of the City for the past 30 years, from its original construction on the site of the historic Desert Inn to the largely unsuccessful effort by a prominent, national shopping mall developer to expand and remake the property, to a number of redevelopment proposals that have been made by several developers since the mall went into foreclosure in the late 1990's.

Largely vacant for the past decade, the mall is the largest single property in the Downtown and the most blighted. The deteriorated state of the mall keeps Downtown from really thriving, and casts a negative pall over the entire area, offsetting a number of successes in the Downtown area. As was typical at the time the mall was constructed in the 1960's and redeveloped in the 1980's, it was "fortress-like" and focused inward, with few storefronts facing the street, providing little synergy with the rest of the Downtown. In addition, the property blocks the visibility of the Palm Springs Art Museum, the City's most significant cultural asset, from Palm Canyon Drive. The combination of the key location, the sheer mass, the retail obsolescence, and deteriorated condition of the property makes its redevelopment critical to the future success of Downtown.

Over the past several years the relationship between the City and the Developer has included a number of joint efforts on research, marketing and capital projects, but have also more recently included the initiation of eminent domain proceedings by the City's Redevelopment Agency because a lack of progress toward the redevelopment of the property. In the end, it is the recommendation of staff and the Council Subcommittee that the proposed Project represents the broad desires of the community for a quality development, and that the attached Project Financing Agreement and related actions represent the best opportunity for all parties to move forward with the Project.

This Project would replace an obsolete enclosed mall with new city streets through the Project, and effectively incorporate both residential and retail uses into an urban village. The project presents a pedestrian-friendly environment with a number of plazas and walkways that provide linkages throughout the project, as well as from Palm Canyon Drive to the Palm Springs art Museum. Upon completion, the proposed Project will reintegrate a property that had been massed into a monolithic "superblock" back into the downtown street grid, resulting in a strong public gathering place comprised of well-designed public spaces linked by a total entertainment and retail environment.

The major emphasis of the Project, like the rest of Downtown, is on dining, arts, and entertainment. World-class architecture, landscaping and enhanced circulation will create an exciting atmosphere where retail, hotel, cultural and other activities can

complement the existing Downtown as well as establish its own sense of place, as well as compete with other high-quality Coachella Valley venues such as such as The River in Rancho Mirage and The Gardens at El Paseo in Palm Desert.

A more detailed redevelopment history of the property and negotiation with the Developer is included as Attachment No. 1 to this staff report.

Purpose of this Project

The overall community objectives for the Project include:

- Eliminate blight at a prominent location in the Downtown;
- Create a "community heart" that weaves into the existing Downtown fabric and street grid and serves as a gathering place for tourists and locals;
- Foster an inclusive place that attracts and welcomes residents, workers and visitors across a wide range of incomes, ages and demographics; and
- Ensure a high-quality environment with respect to the site's buildings, architecture, uses, landscapes and character;
- Improve the economics of the Downtown by driving higher retail sales at the Project and nearby properties;
- Create a dynamic mix of uses with no single-use or monolithic development in a mixed-use project containing retail, entertainment, movie theaters restaurants, offices, public gathering spaces, residential units in a high-quality setting;
- Improve circulation in the Downtown by breaking a superblock into smaller block units;
- Preserve and enhance views of the adjacent San Jacinto Mountains;
- Provide improved visibility of and pedestrian-friendly movement and direct vehicular access to the Art Museum;
- Guarantee a significant supply of free parking in the Downtown.

In addition to facilitating the private development of the Project, this Agreement helps the City define and shape the proper size and scale of the project, desirable land uses, street configuration, and public participation. Most importantly, the Downtown will be re-energized with new entertainment venues, new stores, businesses, residences and activities, and value will be created for all concerned - owners, operators, retailers, residents, visitors, tourists, and the City of Palm Springs.

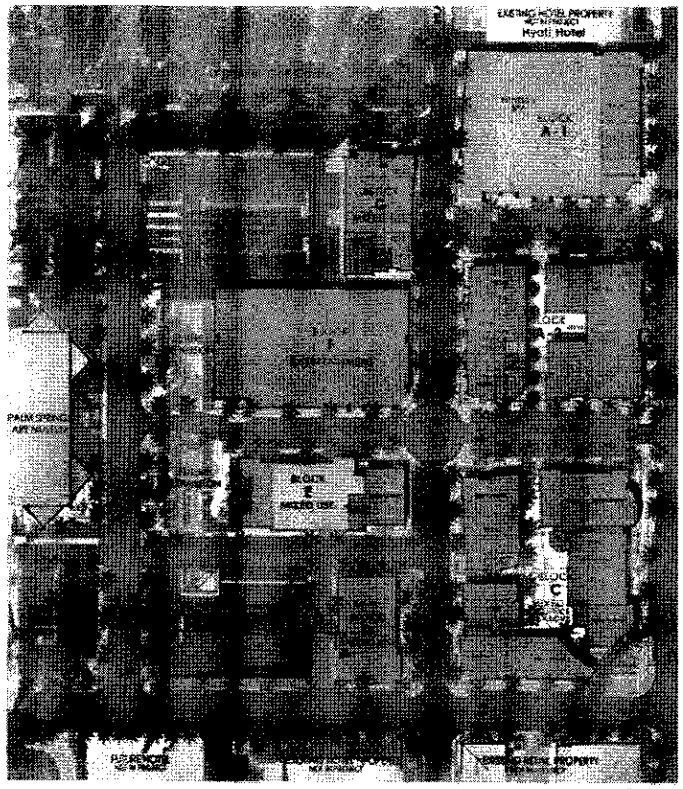
Project Description

One of the key public benefits of the proposed Project is that it reintegrates a 13 acre property that had been massed into a monolithic "superblock" into the downtown street grid, resulting in a strong public gathering place comprised of well-designed public spaces linked by a total entertainment and retail environment. The General Plan and

the Museum Market Specific Plan strongly recommend breaking this large, assembled block into smaller modules, creating more street frontage, more open space and more retail and commercial vitality.

Upon completion of the Project's new public streets, landscaping and walkways will be in place to provide user friendly pedestrian and vehicular circulation; all street intersections will be finished with decorative pavers; at entry points into the DFP Area, streets will contain submersible stainless steel bollards that can be electronically raised so that interior streets and other areas can be used for special events and functions as needed; new public areas between Palm Canyon Drive and the center of the Project will be enhanced with public art and sculpture to serve as a place for pedestrian activities and public functions; the renovated building in Block A-1 (the only retail property not fully demolished) will have all new exterior facades; new buildings will be in place in Blocks A-2 and C; Blocks D, E and G will be temporarily used for parking and/or landscaped open space pending future vertical development; and, Block F will contain a new state of the art multiplex movie theater.

The Conceptual Site Plan for the Project is shown to the right. A more detailed description of the Project and larger copy of the Plan is included in Attachment No. 4.



PALM SPRINGS DOWNTOWN REVITALIZATION Concep
CONCEPTUAL MASTER PLAN

The following section contains a number of potential deal points included in the Agreement. These deal points assume that the City will be able to identify sufficient funds to secure the project.

Financing Structure/Agreement Provisions

The total development cost of Phase I, described above, is in excess of $100 million. The estimated amount of City participation, including the construction of public infrastructure and the acquisition of certain public properties, would be approximately $43 million.

The City has structured the project contribution as follows:

1. The City's funds of $32 million would be deposited in a project-related escrow account to be used solely for project-related costs, under the terms described below; and
2. The City would undertake the construction of the streets and the improvement of the parking facilities, at an estimated cost of $11.0 million;
3. In return for its contribution toward making the Project economically feasible, the City would receive title to all of the Project's parking (surface, underground, and structure) as well as the land underneath the streets, the future Museum expansion pads, and the restroom site and building.

Part of the structure under the Agreement shall be the acquisition of certain real property at the site. These include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) the two possible "museum expansion" sites; (4) the improved streets created by the project described as the Museum Street, Andreas Road and the Belardo extension; and (5) new public restrooms.

Legal descriptions of the parcels are included in the Agreement. The City's development cost would include the cost of constructing public streets with decorative paving and the refurbishing of the underground and structured parking spaces. More detail on the terms of the Agreement is included in this staff report as Attachment No. 2.

Project Incentive Analysis

The Agreement is intended to make the overall development project feasible. Every previous Desert Fashion Plaza redevelopment proposal had a shortfall between the "after-development value" and the cost to construct. The feasibility shortfall is due to the difference in cost between rebuilding the center or tearing down and building a new center and the capitalized value of the property based on future rents.

The City used Keyser Marston Associates, Inc. of Los Angeles to analyze the financial assistance request from the Developer. Keyser Marston provides the third party verification of the project's cost and revenue assumptions, based on their considerable experience in the Southern California and Coachella Valley markets.

Keyser Marston completed a pro forma analysis for the Phase I of the Project. The analysis found that, as currently proposed, the Project is not financially feasible without significant public assistance. Keyser Marston has estimated that the Total Construction Costs for the Project are approximately $81 million. These costs include off-site

improvements, on-site improvements and demolition, A-1 Façade Improvements, Shell Costs for A-2, C, and F, Tenant Improvements, Indirect Costs (including architects, engineering, permits, taxes, etc) and financing expenses. The City will be responsible for the off-site improvements estimated at $10.8 million. The Developer will be responsible for the remaining expenses, or $70 million. In addition, the Developer has incurred land costs related to the purchase and carrying of the property of at least $20 million. Keyser Marston has estimated that the Project requires approximately $20 to $25 million in economic incentives or support.

A more detailed discussion of the feasibility analysis, as well as the role other cities have taken in similar projects, is included in this report as Attachment No. 5.

FISCAL IMPACT:

The fiscal impact of this project comes in the form of direct impacts, primarily the additional taxes generated by the project, and indirect impacts, mainly the increased vitality and economic activity in the Downtown that yields additional economic impacts from the entire Downtown area. It has been the experience of other communities which have undertaken these major, transformative projects that the indirect benefits are often in excess of the direct benefits, even when the community retains all the tax revenues from the project itself.

Returns to the cities are viewed in many ways, the most common of which is the achievement of a community vision. Public-private projects are intended to create a sense of place and enhancement of the image of the community that the private sector acting on its own could not otherwise create. Financial returns to cities can also be measured, typically through the annual property taxes and sales taxes generated.

From a public benefit perspective, even in a project such as this receiving City or Agency public investment, the City normally retains the sales taxes while the Redevelopment Agency receives the incremental annual property taxes.

Direct Economic Benefit of the Project

The two direct sources of public benefit would be property tax increment, which would accrue to the Redevelopment Agency, and sales taxes, a share of which would flow to the City. For the purpose of public benefit calculations, it was assumed that the Agency would continue to collect approximately 60% of the statutory 1% in property taxes paid by the Developer, and that the current value of the property on the tax rolls is approximately $20,000,000. Tax increment would be the Agency's share of the property tax paid on the incremental difference in value between the base (today's value) and the improved value. The amount Riverside County actually assess will likely be closer to the construction cost than to the economic value discussed in the previous section. It is estimated that in 2015, the year the core and shell improvements, as well as the movie theaters, are complete,

the project would produce approximately $369,000 in tax increment to the Redevelopment Agency. At stabilization, the Phase I project would produce over $400,000 per year in property tax increment.

Additional benefit comes with the development of the Phase II improvements on Blocks D, E, and G. Assuming they are completed by the stabilization year 2021, those buildings would produce an additional $430,000 per year in property tax revenue. Therefore, ultimately, the Revitalization Plan would produce in excess of $830,000 per year in tax increment for the Redevelopment Agency.

The City currently receives 1% of the current 7.75% sales tax paid by retail customers in Palm Springs. Assuming the sales tax rate stayed the same, it is estimated that in the first year of operation, 2015, the Project would produce $112,000 in sales tax for the City. At stabilization, in 2021, the project is estimated to produce over $615,000 per year in sales taxes for the City. Any increased sales tax rate would also increase revenues from the project. Hypothetically, if the rate happened to be increased by 1.0% sometime in the next five years, at stabilization the project would produce over $1,230,000 per year in sales taxes for the City. Under the Agreement with the Developer, there is no sales tax sharing and the City keeps all the revenue.

Indirect Economic Benefit of the Project

As stated above, other communities which have undertaken these major, transformative projects have found that the indirect benefits are often in excess of the direct benefits, even when the community retains all the tax revenues from the project itself. Livermore found that the benefit of its street reconstruction and public improvement project, which also facilitated private investment in the Downtown, was that the downtown retail vacancy rate fell to under 5% even with addition of 100,000 new square feet of retail in last 5 years, and that average rents increased from $0.40-$0.60 per square foot to $3.20 to $3.50 per square foot during that time. Downtown Palm Springs is beginning from a stronger economic base, with typical rents in the $1.50-$2.00 per square foot range, but doubling of property values in the area, based on dramatically improved sales in the Downtown, is nevertheless quite conceivable.

Other significant mixed-use projects, such as The Grove in Los Angeles, find that their average visitor spends $183 per visit – or three times the national average. The creation of a destination combined with higher-end retail tenants is a formula for increased economic benefit area-wide.

Oakland found, with the redevelopment of its Fox Theatre downtown, that a spillover benefit of that entertainment-oriented project was that seven new restaurants opened within a five block area, and existing nearby businesses also showed increased sales. Most communities found that their projects also expanded the number and types of

businesses and enhanced the economic vitality of the community, added additional housing to downtown, and reused underutilized or blighted areas.

An investment of $80-100 million in the Phase I project would also create hundreds of construction jobs as well as hundreds of permanent jobs in the community. Additionally, the ultimate development of residential units in Phase II and Class A office space in the Downtown in the later part of Phase I and in Phase II will also help begin to shape Downtown into a true 24-hour community, where residents really can live, shop, dine, play and even work.

No public participation is planned for the later phases. The costs of the mixed use (residential) portions of the Project are projected, and could be as much as the rest of Phase I combined. Thus, the effective local public contribution as a percentage of the overall cost, spread over the entire Project, may be only half of the amount calculated to date. Second, the parking garage and streets are investments in public infrastructure just as other communities make, and do not represent a subsidy to the Developer.

Third, some of the investments will benefit projects and constituents beyond the Project itself. A significant share of the public investment shall be used to reopen public streets and refurbish an underutilized parking garage. While it may be hard to imagine these improvements occurring without the impetus of the Project, they nonetheless benefit more than just the Project's shoppers and residents.

If the City had to undertake the construction of these parking structures today, the cost would be in excess of $30 million.

Finally, and perhaps most importantly, the value of the subsidy to the Developer seems proportionate to the Developer's own investment and level of risk. There is no guaranteed rate of return for the Developer in this Agreement. If project costs rise over the next few years, the Developer's estimated rate of return may fall below the generally accepted market rate of return.

The draft Project Financing Agreement attached to this staff report is still under negotiation and subject to revision.

John Raymond, Director
Community and Economic Development

Tom Wilson
Assistant City Manager

David H. Ready,
City Manager

Attachments:

Attachment No. 1:
History of the Desert Fashion Plaza and Negotiation with Wessman Development

Attachment No. 2
Summary of the Project Financing Agreement

Attachment No. 3
Community Design Plan-Visioning Process

Attachment No. 4
Site Plan/Project Description

Attachment No. 5
Project Economic Feasibility Analysis and Public Investment in Major Retail Shopping Centers

Attachment No. 6
Limitations on Potential Redevelopment Agency Participation

Attached Documents:

1. Resolution
2. Project Financing Agreement

City of Palm Springs

Desert Fashion Plaza
Project Financing Agreement
Staff Report

Attachments

Attachment No. 1

History of the Desert Fashion Plaza and Negotiation with Wessman Development

Attachment No. 2

Summary of the Project Financing Agreement

Attachment No. 3

Community Design Plan-Visioning Process

Attachment No. 4

Site Plan/Project Description

Attachment No. 5

Project Economic Feasibility Analysis and Public Investment in Major Retail Shopping Centers

Attachment No. 6

Limitations on Potential Redevelopment Agency Participation

Attachment No. 1

History of the Desert Fashion Plaza and Negotiation with Wessman Development

At 13 acres over two full city blocks, the Desert Fashion Plaza is a property that dominates the Downtown and, in its current condition, has been detrimental to the economic vitality of the area. From the initial construction of the Desert Inn Fashion Plaza, built in 1966 on the site of the Desert Inn, the project has always struggled to be successful.

Summary of the Redevelopment History of the Property

- The mall was constructed on the site of the former Desert Inn in 1966. It was originally called the Desert Inn Fashion Plaza.
- In 1984 the City and Agency assisted the Edward J. DeBartolo Company renovate and expand the mall, including a new store for Saks Fifth Avenue and an expanded I. Magnin space.
- The mall went into foreclosure in late 1996, with the total defaulted loans at $51,698,096.
- In early 1998, AZ Partners purchased the property for $13.5 million. AZ Partners' plan was a $35-million redevelopment of the mall.
- In 1999 lender Excel Legacy Corp., terminated AZ Partners and proposed its own $64-million renovation of the mall.
- In mid-2000, Excel opted to sell the mall instead of developing it. Their asking price was $25 million.
- In July, 2001, Saks announced that it was closing the store.
- Wessman Development Company acquired the mall in late 2001 for approximately $17,000,000.
- In 2005, Cirque Dreams opened a "temporary" theatre at the back of the site to stage cirque-style performances. It closed in early 2007.
- Plans were submitted by Wessman Development in April 2007, called Palm Grove.
- In April, 2008, Wessman Development submitted the Museum Market Plaza plan. It required a Specific Plan.
- In December 2009, the City Council adopted the Museum Market Plaza Specific Plan.

- In January, 2010, the City and Wessman began to negotiate on an Agreement to move the project forward. Those efforts were not fruitful until February 2011.

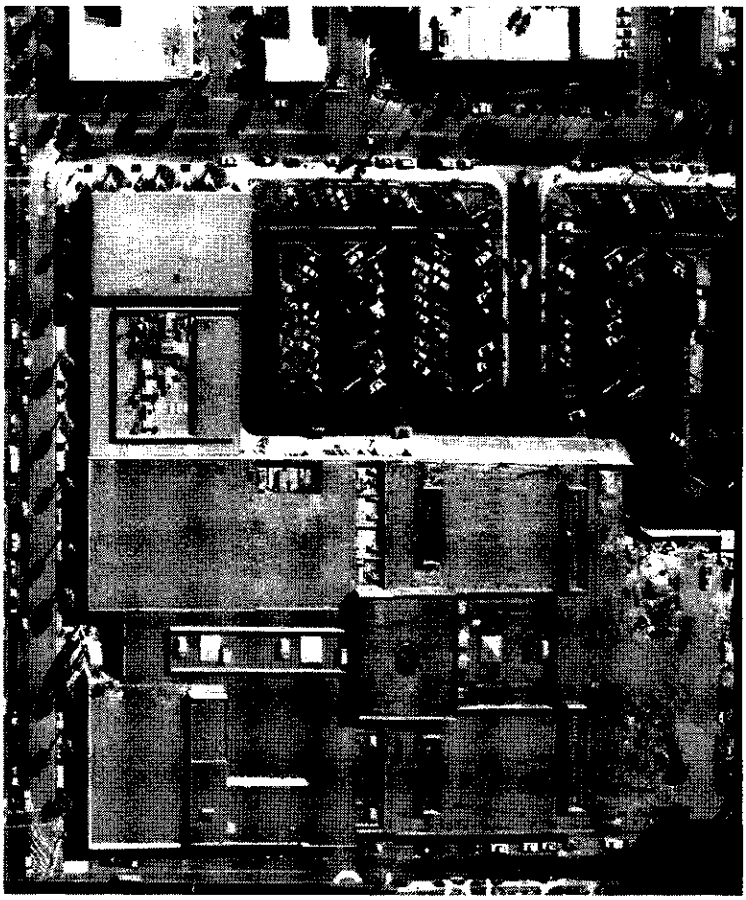
- In December, 2010, the Agency Board authorized the Executive Director to make an offer to purchase the entire property, beginning a sequence of events that could have lead to an eminent domain action on the part of the Agency.

Property History

From 1909 through 1966, the site was the home of the internationally-renowned resort hotel, The Desert Inn. The resort played an important role in the development and recognition of Palm Springs as a premier, world-class vacation destination. Guests of the Desert Inn came for the wonderful climate and natural beauty, but also for the medicinal healing attributes — in its early days the Desert Inn was an international center for the treatment of tuberculosis.

In 1966 the Desert Inn was demolished to make way for the Desert Inn Fashion Plaza, which was renamed as the Desert Fashion Plaza in 1983.

Original Desert Inn Fashion Plaza 1



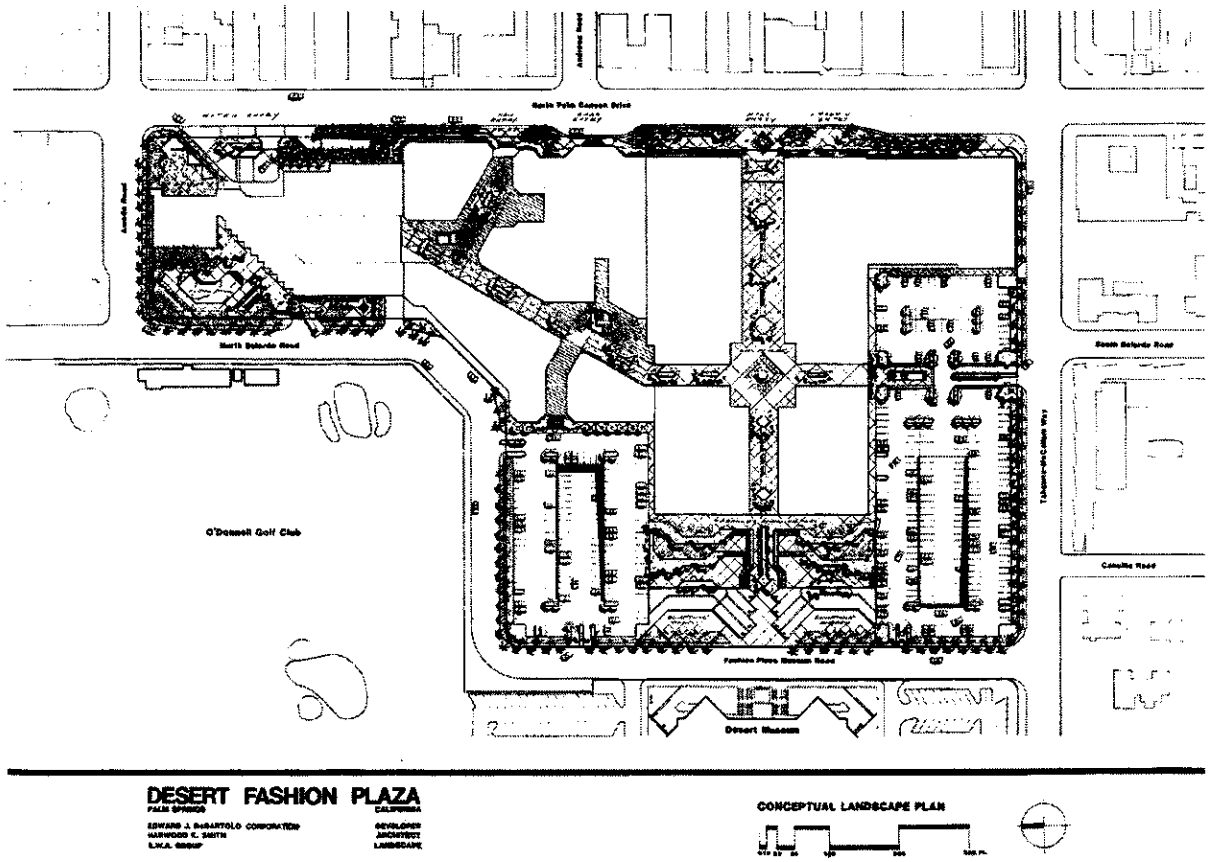
Facing increased retail competition to Downtown from Mid-Valley locations, including El Paseo and the Palm Desert Town Center, in 1984 the City and Agency assisted the Edward J. DeBartolo Company to undertake a major renovation and expansion of the mall, including construction of a new store for Saks Fifth Avenue and an expanded I. Magnin space. It was partly an effort to keep Saks in Palm Springs.

This competition, however, eventually resulted in a loss of shoppers for the Desert Fashion Plaza. Also during this period, major anchors within the Desert Fashion Plaza vacated the site due to corporate restructuring and declining sales. Within a few years from the grand re-opening of the Desert Fashion Plaza, Silverwood's and Joseph Magnin had closed, and a number of other quality retailers failed or moved.

Desert Fashion Plaza - DeBartolo 1

Over the next several years, I. Magnin was sold and later closed, leaving Saks as the only anchor. In 1995, as one of the final efforts by DeBartolo to breathe life into the property, the company supported a successful local initiative to allow a card room at the property. The card room was never built, and the mall went into foreclosure in late 1996, with the total defaulted loans at $51,698,096.

The Hyatt, which was constructed as part of the DeBartolo expansion as a Maxim's de Paris, was not included in the default or the sale.

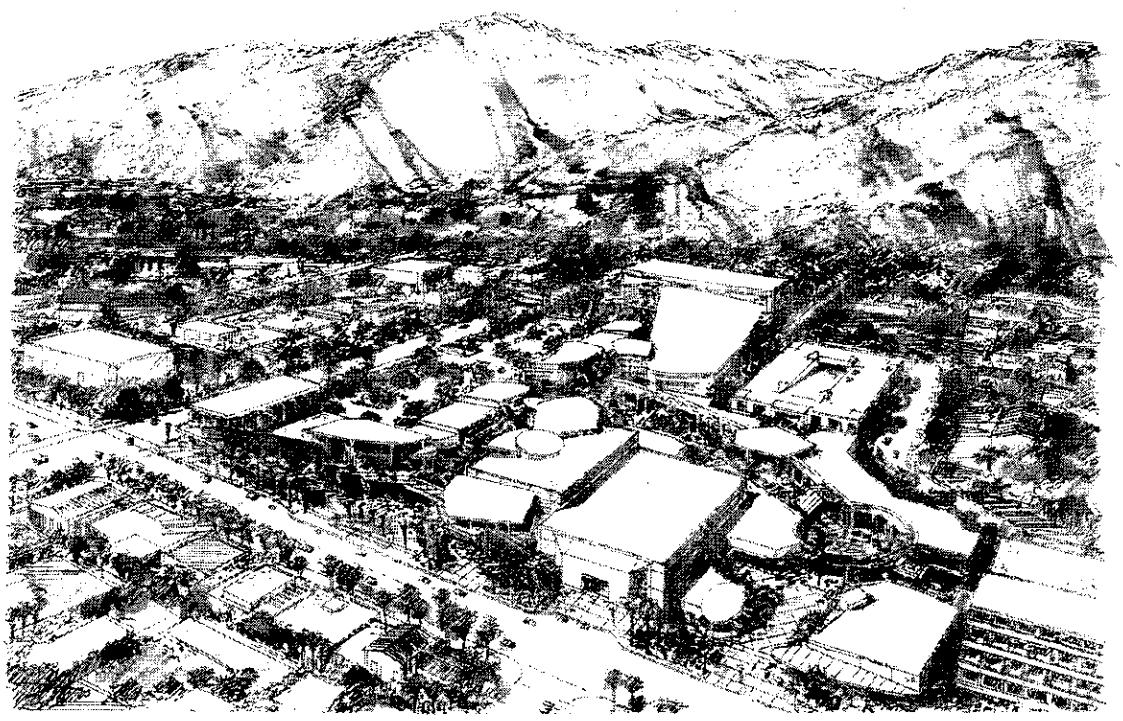


DeBartolo Desert Fashion Plaza 1

In early 1998, the firm of AZ Partners purchased the property for $13.5 million. They planned a $35-million redevelopment of the mall, expanding it to over 350,000 sq. ft. and removing the roof to create an open-air center. The main entrance was to be an open air plaza with outdoor dining, shops and gathering places, plus a 3,000-seat cinema and a 2,400 seat live theatre. The live theater would have created a 75' tall building at the rear of the property, facing the Art Museum, which expressed concerns about such a monolithic property outside their front door. Metropolitan Theaters, the operator of the Courtyard Theaters, agreed to lease the vacant I. Magnin space with the cinemas. AZ Partners' idea was to be more visible to traffic and compatible with the village atmosphere. The project would have been renamed The Promenade.

In 1999 Excel Legacy Corp., already the 96% owner and AZ Partners' lender on the project, terminated AZ Partners and announced a $64-million renovation of the mall, renamed Desert Walk. Their plan was to raze much of the center. Their new development partner was MBK Southern California Ltd. Proposed tenants included Saks, a two-story multiplex theater, a food court, gourmet market, restaurants and various specialty shops. The two story theater was located right on Palm Canyon Drive rather than in the center of the property.

An artist's sketch of the proposed Excel plan, which features the 75' live theater building in front of the museum and the two story cinema on Palm Canyon Drive, is shown below.



Work was expected to begin in 2000 and be completed in 2001. However, in mid-2000, Excel made the decision to sell the mall instead of developing it. Their asking price was $25 million. There were a number of parties that looked at the mall but the $25 million price was not warranted.

Wessman Development acquired the mall in late 2001 for approximately $17,000,000. Wessman's original plan was a Spanish-Mediterranean project to be designed by the Plaza Mercado architect, Robert Altevers. In July, 2001, Saks announced (before escrow closed) that it was closing the store. Of course, the terrorist attacks on September 11 also occurred two months prior to close of escrow, devastating hospitality and retail spending and slowing the redevelopment opportunity through much of 2002.

Since 2002, the Developer has proposed at least 4 different unique projects on this site. Some of the plans featured as many as 14 separate buildings, some with heights as high as 74-79 feet, and plans with up to 955 condos, 400,000 square feet of retail or 620 hotel rooms. Many of the plans ran into some form of community opposition, mainly over height or density. The current plan has been the best-received because of its significantly reduced height and density.

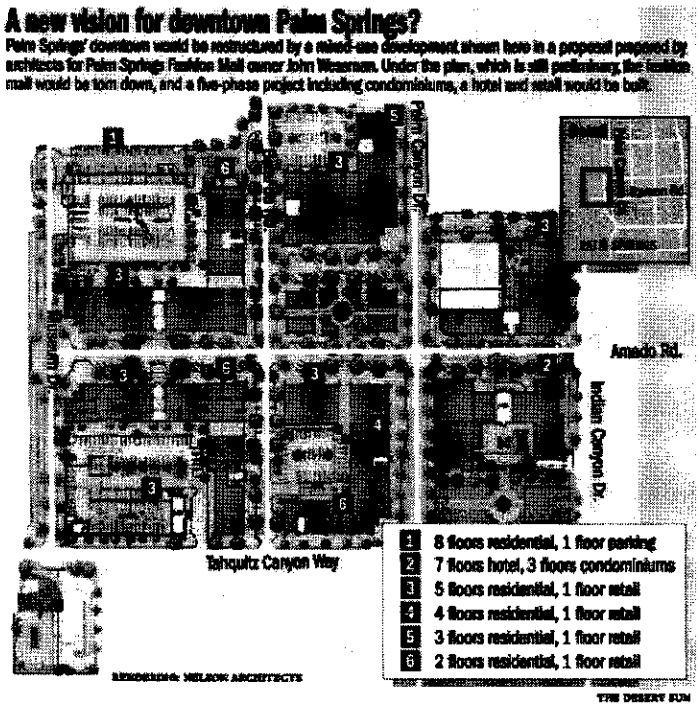
Theaters were always thought to be critical to the proposed lifestyle center: soon after The Developer purchased the property, however, Signature Theaters bought and

renovated the Courtyard Theaters from then-bankrupt Metropolitan Theaters, thereby crowding out other operators in the Palm Springs film zone (trade area).

In 2003, as part of an effort to move the project forward, the City and Developer partnered on a streetscape improvement project, creating 38 new parking spaces on Palm Canyon Drive and opening up the building's facades to public view. The Developer removed DeBartolo's heavy concrete trellis structures from the front, which obscured many of the storefronts. The City pulled the curb back and added on-street parking along the front of the mall, which had been removed with the DeBartolo project.

In 2004, a City Council Subcommittee was formed to work with the Developer. As part of its collaboration, the City undertook demographic and movie theater market analysis, which continues to be updated periodically, and City officials participated in tenant meetings and worked on structuring financial assistance packages.

One of the challenges faced by DeBartolo, AZ Partners, and Excel was how to come up with a viable economic use for the rear of the property, as the site was now configured into a "superblock" two city blocks deep. The common experience in Downtown is that retail vitality declines as stores locate further from Palm Canyon Drive. As a potential solution, The Developer's proposed 2004-2005 project had a residential component with condos and townhomes at the rear of the property. The focus would be a plaza for events such as concerts and art fairs, and a new street between Palm Canyon Drive and Museum Drive. The Bank of America building, the I. Magnin store and some of the "back" retail space would be demolished.



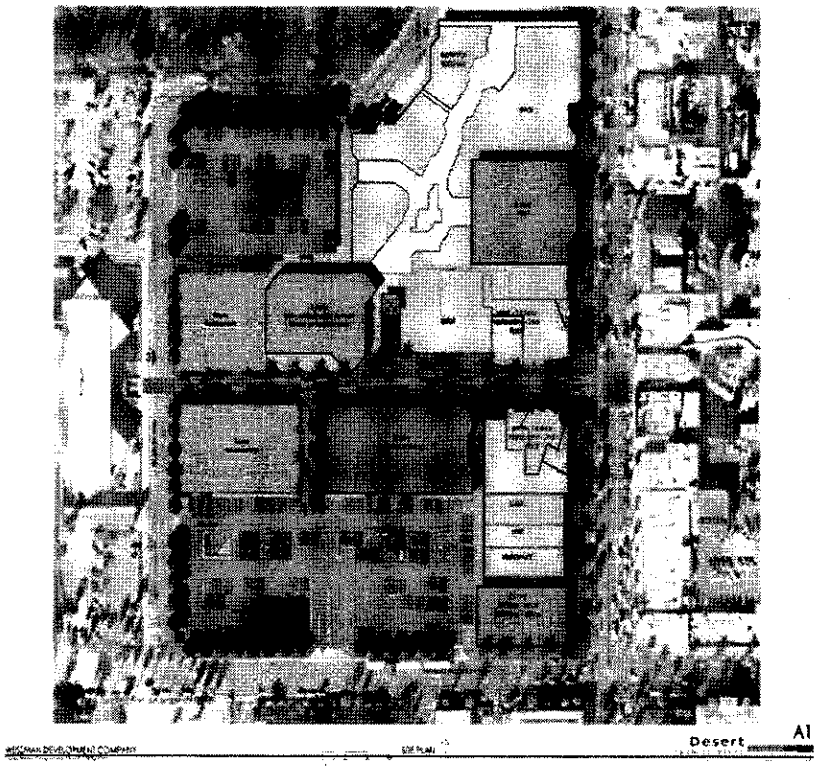
The Plan featured streets through the project and multi-story buildings. In 2005, anticipating this plan, the City Undertook Downtown Urban Design Plan process, which was an effort to develop guidelines for the urbanization of Downtown. Produced after months of community participation, the Plan included design guidelines and greater east-west connections, but did not grant additional height to the project beyond the existing General Plan. In that year a referendum was proposed that could have limited heights Downtown, while at the same time two other "gateway" projects were proposed that were also taller-than-typical buildings: Port Lawrence and The Palm Canyon.

Another development at the property also occurred in 2005: Cirque Dreams opened a "temporary" theatre at the back of the site to stage cirque-style performances. That venue closed early in its second season, in early 2007, leaving a significant tent structure at the rear of the property where a portion of the mall had been demolished. That tent was finally removed in April, 2011.

Plans were submitted by the Developer in April 2007, called Palm Grove, which featured 14 separate buildings, ranging from 20-74 feet high; the project would have included 65 to 75 new stores and restaurants, plus a gym, a pharmacy and several hundred condos. The new Museum Way and Belardo would have cut through the project, and open space with a stage and smaller restaurants.

The plans included the layout of the buildings and called for contemporary architecture, to be submitted after the site plan was approved by City Council. Approval was expected by the end of 2007, with construction beginning end of 2008.

Renovation Plan 1



In April, 2008, however, a new plan was submitted: Museum Market Plaza. It also included a central public plaza with condos, offices, retail and entertainment. Because the project proposed buildings which could reach 79 feet, the Developer was required to process a Specific Plan for the area which amended the City's General Plan to allow taller buildings.

Beginning in late 2008, Wessman Development, the City, and the Redevelopment Agency embarked upon the creation of a Specific Plan for the properties. The Specific Plan allowed the developer flexibility in proposing land uses which would be market-driven, with up to 955 condos, 400,000 square feet of retail and 620 hotel rooms, in a formula that traded retail square footage for hotel rooms or condos, and vice versa. For example, if there were the full 620 hotel rooms, there would be fewer condos and retail square footage. It also contained and allowed a "Renovation Plan," which was a minor remodel of the mall property.

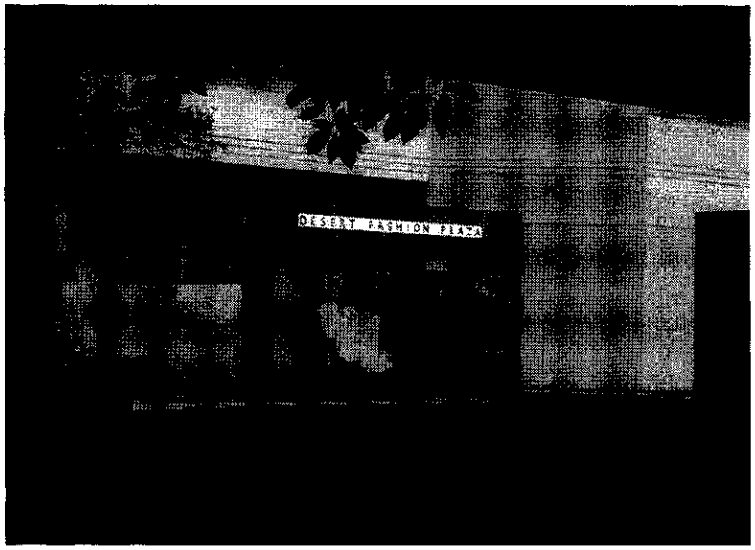
In December 2009, the City Council adopted the Museum Market Plaza Specific Plan and the Redevelopment Agency adopted the Specific Plan as the Design for Development for the Redevelopment Area Plan. In approving the Specific Plan and the Design for Development, the Council and Agency expressed their belief that the adoption of the Specific Plan and Design for Development, with its new zoning and organization of the properties, accented by a new street from the Palm Springs Art Museum through to Indian Canyon Drive and a potential expansion of the Palm Springs Art Museum and the creation of new public spaces, would provide a template for the redevelopment of the property with private development.

An EIR for the plan was certified at the same time. A much more modest Renovation Plan was also included in the approval of the Specific Plan as well. The Specific Plan shows a vehicular street through to the museum.

Beginning in January 2010, City staff and consultants engaged Wessman Development in a defined, six month program to negotiate a Development Planning Agreement ("DPA") that would provide essentially a set of mutually agreeable assumptions, timelines, and general requirements for the negotiation of both a Development Agreement and Owner's Participation Agreement for the redevelopment of the Desert Fashion Plaza. Despite the efforts of all parties, no agreements were reached.

On August 9, 2010, the City Attorney's Office, on behalf of the Redevelopment Agency, advised Wessman Development that the Agency was unwilling to wait indefinitely for Wessman Development to propose and demonstrate financial capacity to redevelop the Desert Fashion Plaza.

On September 22, 2010, the City Council and Agency (1) authorized the completion of an appraisal of the Properties, (2) solicited a Request for Proposals, and (3) directed staff to identify potential alternatives for financing any Agency or City participation in any approved project or the purchase of the Properties.



The Agency commissioned Integra Realty to complete an appraisal, which was discussed in the closed session immediately preceding the Council and Agency meeting on December 15, 2010. The Agency authorized the Executive Director to make a conditional offer to purchase the Properties and negotiate in good faith with Wessman Development for the purchase of the Properties.

The Council considered two main constraints on any eminent domain: (1) The City can only use eminent domain for a valid public purpose such as streets or parks, and not for furthering private redevelopment (though the Redevelopment Agency can); and (2) any eminent domain action would require the City to pay an owner the actual fair market value – no government entity can "take" the property without compensating the owner at least the appraised value.

Staff also recommended the Agency and Council consider inclusion of a greater level of potential public uses, amenities, facilities, and services in the project than would otherwise be considered in any private development program or project. These public uses, amenities, facilities, and programs would be consistent with the adopted Specific Plan and enhance the vision of the Specific Plan properties as the focal point, the core, of Downtown Palm Springs. Staff also developed several financing alternatives for the acquisition of the Specific Plan Properties and presented several of those options at the Council/Agency meeting.

An offer letter was delivered in late December and a negotiation meeting was scheduled for mid-January, 2011. Agency staff, the City Attorney and special counsel met with Wessman Development and their attorneys to discuss the Agency's offer. No agreement was reached on any whole or partial purchase of the Specific Plan Properties.

It is likely that the best way to move the project forward was to threaten acquisition of the property. Since reopening negotiations with Wessman in February, 2011, the Council made it clear that the negotiation is a "dual track" and, if necessary, wanted to be able to adopt the Resolution of Public Necessity if negotiations fell apart. Notice has been made to the Developer and the Resolution of Public Necessity is on this agenda as well.

Attachment No. 2

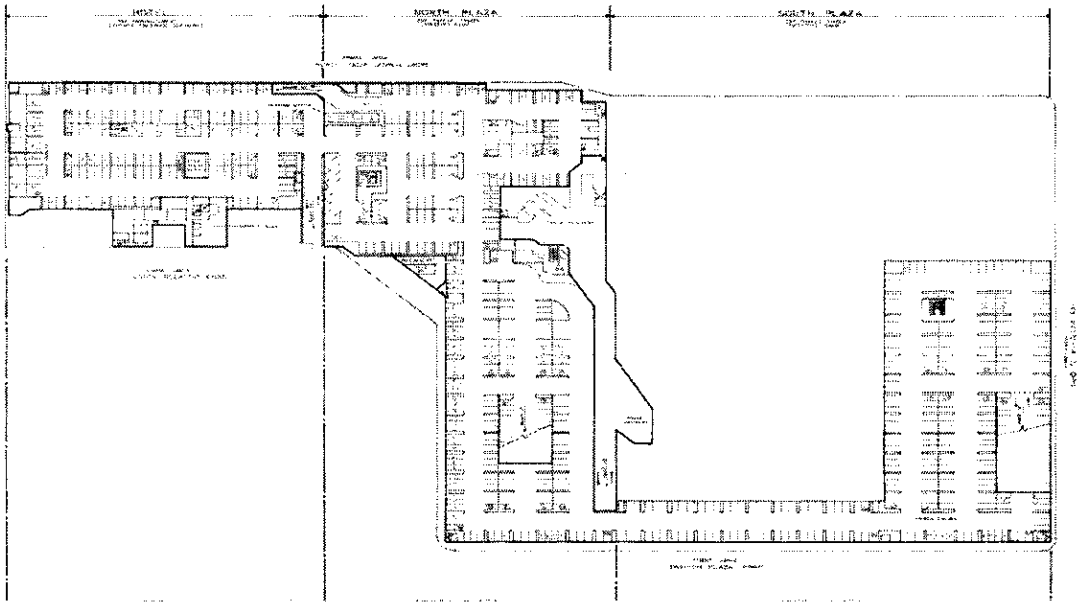
Summary of the Project Financing Agreement

The total development cost of Phase I of the Revitalization Plan is in excess of $100 million. The Agreement provides for an estimated amount of City participation, including the construction of public infrastructure and the acquisition of certain public properties, of approximately $42 million.

The City has structured the project contribution as follows:

1. The City's funds of $32 million would be deposited in a project-related escrow account to be used solely for project-related costs, under the terms described below; and
2. The City would undertake the construction of the streets and the improvement of the parking facilities, at an estimated cost of $11.0 million;
3. In return for its contribution toward making the Project economically feasible, the City would receive title to all of the Project's parking (surface, underground, and structure) as well as the land underneath the streets, the two future Museum expansion pads, and the restroom site and building.

A significant part of the structure under the Agreement shall be the acquisition of certain real property at the site. These include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) the two possible "museum expansion" sites; (4) the improved streets created by the project described as the Museum Street, Andreas Road, and the Belardo extension; and (5) new public restrooms.



Existing Underground Parking Plan 1

Legal descriptions of the parcels are included in the Agreement. The City's development cost would include the cost of constructing public streets and the refurbishing of the underground parking structure. The Developer provided the City detailed cost estimates on these elements performed by the PENTA Building Group, such as demolition, streets, renovation of the parking structure, plus site work for the park/plaza and the private development. Other aspects of the Agreement include:

- Funds Control. In return for fee title to the Property described above, the City's funds would be deposited in a project-related escrow account to be used solely for project-related costs such as construction, architecture, engineering, and design. Other necessary funds – such as the equity contribution and personal guarantee from John Wessman, would be identified as well.

- Term. The Phase I of the Revitalization Plan sets a schedule for completion of the core and shell improvements (retail and office along Palm Canyon, the street infrastructure, the museum expansion sites, and the movie theaters) by December 2014. The major milestones in the project schedule are:

Milestone	Estimated Date
City approves or disapproves Agreement	**July 20**
City identifies potential source of public financing	**November 18**
City waives its right to terminate Agreement based on inability to identify source of public financing	**December 10**
Developer contracts with architectural firm to produce Major Architectural Modification Plan/Tentative Map	**December 10**
The City and Developer open escrow for conveyance of the parking structure and other public sites to the City	**December 10**
Developer commences demolition of Bank of America building	**January 21, 2012**
Close of Escrow, recordation and delivery of documents	**April 15, 2012**
Submission of Tentative Tract Map/Major Architectural Approval Application	**April 24, 2012**
Approval by City Council – Tentative Tract Map and Major Architectural Approval	**June 6, 2012**
Developer submits Construction (Building and Engineering) Plans and Grading Plan	**May 17, 2013**
Commencement of Construction of Developer's Improvements	**August 15, 2013**
Completion of Construction of Developer's Core & Shell Improvements	**December 15, 2014**
Likely Completion of Major Tenant Improvements	**May 15, 2015**

- Default. If the City is able to secure its public financing commitment, and there is a default by the Developer, e.g. they do not move forward on the development of the project, there is a provision that allows the City to acquire the remaining private property and all entitlements from the Developer. The remedies for default allow but not require the City to acquire the Property at a price determined by a process whereby the City and the Developer each commission an appraisal, and if the appraisers disagree on value, a third appraiser is hired to provide a final, binding opinion by selecting one of the two appraisals. The date of appraisal would be the default date. In addition, John Wessman, as the Managing Member of Palm Springs Promenade, LLC, shall provide the City a personal guarantee for the obligated private funds backed by other real property, which provides the City another level of protection of its investment.

- Demolition. A small part of the demolition of the mall is included in the City's cost, but most of the demolition is contained in the Project cost and the responsibility of the Developer. The first property, the Bank of America building, would be demolished in early 2012. The remainder of the Property demolition would commence around May, 2013, at the time when the Project's plans are to be submitted to the Building Department for Building Permits. That would allow the vertical construction to proceed immediately after receipt of building plans.

- Relocation of tenants. All costs of tenant relocation are part of the private project cost and the responsibility of the Developer, to be included in the overall project cost. Under the Developer's schedule, tenant relocation costs may be relatively small, as most tenants are not in long-term leases and could be relocated within the project.

- Covenants on the Property. The Agreement contains related agreements that cover the public parking, maintenance and operation of open space; reciprocal easements for access to and from the center; and dedications of rights of way.

Certificates of Compliance/Certificates of Acceptance. The City would issue Certificates of Compliance for certain milestones reached by the Developer, including a Final Certificate of Compliance when the Project (as described in the Agreement) is complete.

Attachment No. 3

Community Design Plan-Visioning Process

Because the City Council was considering placing a tax increase, possibly sales tax, on the ballot to pay for the acquisition, creation of the streets through the site, demolition, tenant relocation and development of public amenities there, the Council felt a strong need for community input. To that end, the Council approved a community input process to occur during January and February. To make a proposed June, 2011 ballot, the Council would have needed to vote on March 2, 2011, to put the tax measure on the ballot.

The Council's desire was to undertake many of the elements in the Specific Plan, including the development and construction of the street grid described in the plan, as well as the creation of the public open space, as well as eliciting wide community input in the ultimate design and development of the project. In early January, 2011 the Council's expressed desire was to expand the amount of public space in the plan, extend the east-west connection through the project, possibly reconnect Belardo Road through the north-south axis of the project and consider other civic uses on the site. There would also have been some element of commercial/retail/restaurant that was complementary to the overall public uses in the project.

Since there was a need to have a credible concept in hand at the conceptual level in order to demonstrate the necessity for acquiring the property and to have some confidence in the viability and public acceptance of the proposal, the Agency invited two highly qualified professional urban design and land use planning firms to submit qualifications and conceptual proposals to facilitate the community design process for the project. These firms were selected for their sound and in-depth understanding of contemporary commercial retail, mixed-use and entertainment center development, as well as extensive experience in the design of quality projects within Downtown entertainment districts.

In January, City Council hired MIG, Inc. of Berkeley to conduct community design workshops to help determine the community "vision" for the mall. The first workshop held was held on January 26, and approximately 200 people attended. The 2nd and 3rd community workshops were held in February, with the final meeting the largest of the three. It was during that period the Council Subcommittee met with The Developer and recommended a new partnership approach.

Following an overview which summarized the history of the property, the current General Plan and Downtown Urban Design Plan, and parameters of the workshop, attendees were broken into five groups for focused discussions on the following topics:

- What types of stores and uses are desired?
- Where are new open spaces and plazas preferred?
- What are the possible new street connections, east to west and north to south?
- Are there any preferences for architectural styles?

• How much of the existing mail should be retained?

There were a number of themes that emerged from workshops. Most people wanted to see some or all of the following types of activities in the center:

- Most wanted open and pedestrian friendly spaces and a mix of uses.
- Majority would like to see a combination of architectural styles-particularly Spanish and Mid-Century modern blending in with existing styles. Scale is also very important and low rise is the strong preference.
- People want to see world class architecture from world renowned architect(s).
- Majority would like all or at least some of the existing Desert Fashion Plaza buildings to be demolished except for the underground parking and parking in general.
- Many expressed a desire for free parking at the site.
- The consensus was for a mix of revenue generating businesses, office space and public spaces. Mix high end and affordable stores to attract both residents and tourists of all classes. Local/small boutiques are overwhelmingly preferred-nobody asked for "big box" retail.
- Also, art space/galleries and cultural spaces were identified as needed.
- Shade/misters and other outdoor features should be incorporated to extend the outdoor season and mitigate the impact of our extreme heat.

The MIG Plan was developed through the three community design workshops. What came out of those very positive meetings were concepts and a plan that bears a tremendous resemblance to the Developer plan. The two site plans were at least 80% the same in February, as The Developer incorporated input from the community workshops into his plan. Today's plan, as modified, it is even more similar than it was in February

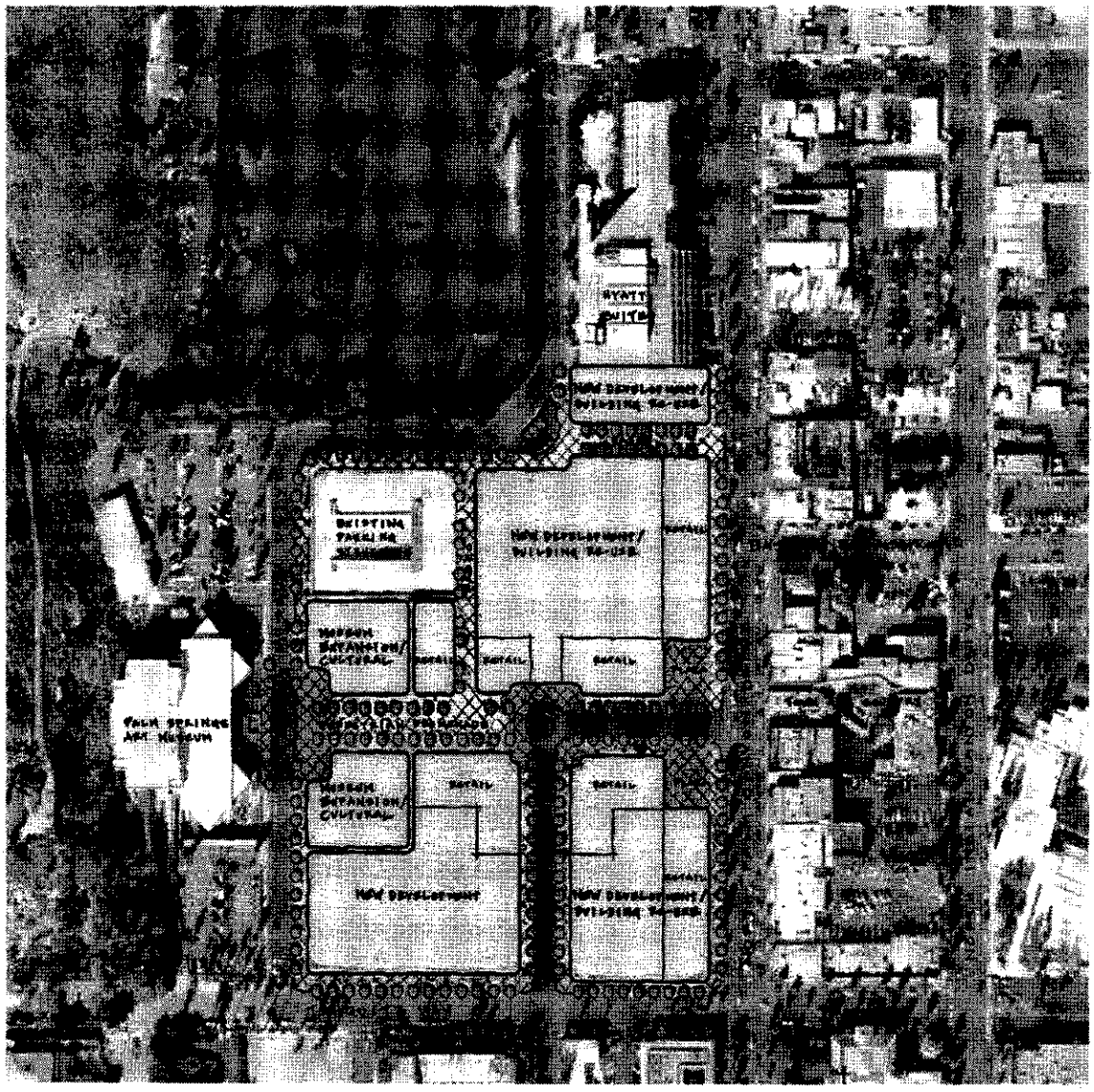
MIG showed a development site at the south end of the Hyatt that could accommodate a new ballroom and some other retail space. They also suggested a pedestrian promenade through the site to Belardo. Both plans contain two potential sites for the Museum to expand. Other elements of the Community Plan were:

- East-West connection between Palm Canyon Drive and the Museum, as well as Belardo Road connection
- Open space plaza along Museum Drive
- Movie theaters could move "into" the northern part of the mall
- Museum expansion sites on either side of roadway, across from Museum
- New or remodeled retail space along Palm Canyon

The elements of the Developer's Plan are:

- East-West connection between Palm Canyon Drive and the Museum, as well as Belardo Road connection

- Movie theaters are located on the north side of the new Museum Drive, where the I. Magnin store is today
- Museum expansion sites on either side of roadway, across from Museum
- New or remodeled retail space along Palm Canyon; almost all of it is new space and one-story on the street
- New open space at the corner (Bank of America)



Attachment No. 4

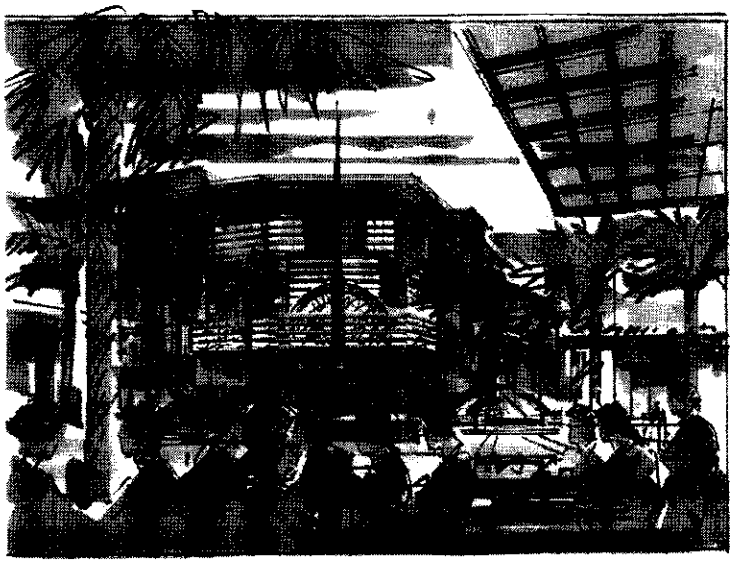
Site Plan/Project Description

The existing Desert Fashion Plaza is spread over 13 acres, located between North Palm Canyon Drive, Tahquitz Canyon Way, Museum Drive, Belardo Road, and Amado Road. The current development has more than 288,000 square feet of enclosed retail and circulation space, including 115,000 square feet of three former anchor tenants — Saks Fifth Avenue (50,000 square feet), I. Magnin (40,000 square feet), and Bank of America (25,000 square feet). Today only a few tenants occupy the vast Desert Fashion Plaza. These tenants include a restaurant, café and cellular telephone store. Pedestrian access to these shops is directly from the west sidewalk of North Palm Canyon Drive.

The project also includes 1,061 parking spaces (282 at-grade, 670 below-grade, and 109 above-grade). A parking deck accessed from Museum Drive is located in the site's northwest corner. An underground parking garage extends from beneath the northern portion of the property to its southwest corner. There are three points of access to the underground parking: from the hotel drop-off on North Palm Canyon Drive, from the northern end of Museum Drive, and from Tahquitz Canyon Way.

The design and character of the Desert Fashion Plaza are more typical of a suburban shopping mall than a downtown environment. With its inward focus and large footprint, the site does not weave well into its surroundings. Blank walls characterize several facades, particularly along North Belardo Road, and some spaces feel isolated and dangerous. The mall cuts off and turns its back to the Palm Springs Art Museum, blocking access and views. A few spaces are attractive and accessible, including some retail frontage at the site's southeast corner along North Palm Canyon Drive. However, as a whole the mall feels dated, inactive and incongruous with the exciting environment of Downtown Palm Springs.

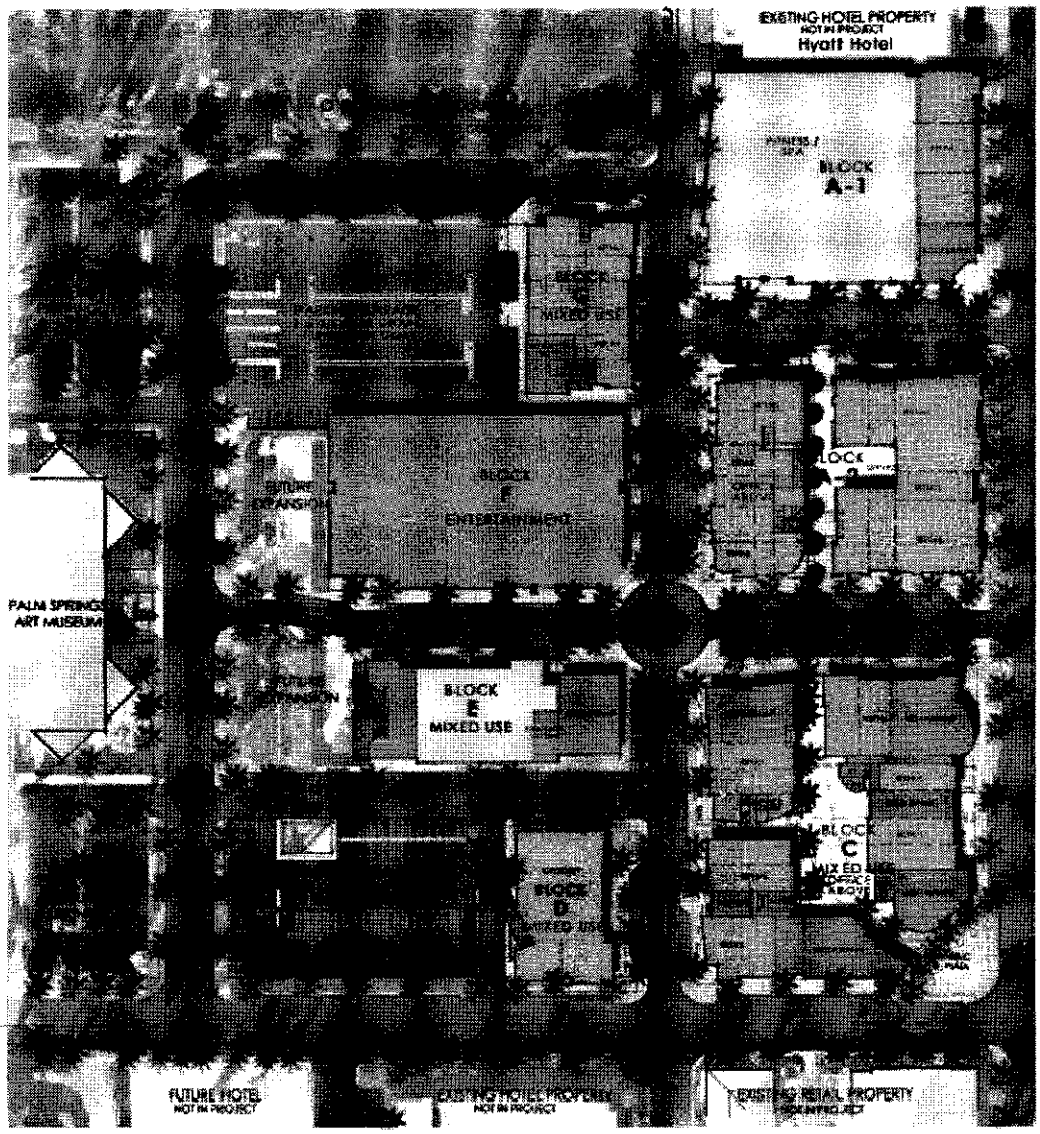
Based on substantial public participation and input, the City has a number of design objectives and elements to guide the development and redevelopment of the Desert Fashion Plaza, which include:



- Create a unique blend of spaces, uses and activities that reflect the Palm Springs lifestyle and climate;
- Include a diversity and mix of land uses, including retail shops, restaurants and cafes,

as well as uses such as theaters, performance venues, museums and galleries that reflect the arts, culture and entertainment focus of Palm Springs;

- Interface with the adjacent Palm Springs Art Museum and allow for future options for museum expansion;
- Enhance views to the mountains and art museum;
- Ensure a walkable and human scale development;
- Create a strong east-west connection through the site;
- Create places to gather including a variety of interconnected open spaces, from large community plazas to small, intimate spaces;



PALM SPRINGS DOWNTOWN REVITALIZATION Concep
CONCEPTUAL MASTER PLAN

- Include "festival" streets, with the ability to close off automobile traffic for special events and activities, such as the Farmer's Market, art festivals and Village Fest;
- Achieve architectural excellence;

- Incorporate sustainable and climate responsive building and landscape elements; and
- Consider the costs and benefits of maintaining certain existing buildings; in particular, keep the parking structure in the northwest corner.

All of those elements are present in the Revitalization Plan. Under this Agreement the Developer shall construct Phase I of the Revitalization Plan project, which includes the demolition of most of the retail properties of the mall, the development of new retail buildings on Palm Canyon Drive, a new Museum Way from Palm Canyon Drive to the Art Museum, a reconnection of Belardo Road, new public spaces, and new movie theaters. The Project Description for the Agreement covers Phase I of the Revitalization Plan, which is the portion of the project covered in the feasibility analysis but does not include the future buildings on Blocks D, E, or G.

Streets

There will be no "private" vehicular streets in the Project, though there are private plaza spaces, which includes the plaza at the corner of Tahquitz and Palm Canyon, as well as a pedestrian street from that corner plaza to the center street, which includes a 60' x 140' plaza in the center. These shall be privately owned and financed; they are "public" in that they are open and available to the public to use, but are under the control of the private property owner, which shall also bear the cost of maintaining them. Any cost of private streets or plazas is part of the project cost and the responsibility of The Developer, to be included in the overall project cost.

The Project proposes demolishing property at the most valuable corner – the 100% corner in Downtown – and placing a public space at least 90-100' deep there. The entire street grid created by the project and conveyed to the City will also be designed with landscaping, architectural shading and decorative interlocking pavers, and no curbs, to maximize its use for events. The new Museum Way will be wider, building to building, than Palm Canyon Drive. All of it will be available to be closed off for special events and public activities. It is appropriate urban public space for an urban environment. That also doesn't count the two "museum pads" to be conveyed to the City which will be open green space until the day the Art Museum builds on one of them.

It has been suggested that normally in a development project a developer would construct and dedicate the

streets to the City. That is often true, but a City can actually only require dedication of General Plan streets, and these are not. In addition, the cost of developing these streets – on land that had previously been buildings, or worse, parking structures – is extraordinarily high. From a business transaction perspective, the construction of the public streets by the City is a legal and practical way to reduce the feasibility gap in the project.

One outcome could be permanent free parking for the public at the site. Another outcome would be City's ability to assist two of the City's most significant cultural assets -- the Art Museum and the Film Festival -- expanding their facilities or their programming at the site.

The Museum Pads

These two parcels, located at the far western end of the project, shall be filled in and free of debris and repainted, broken concrete repaired, and made usable during the period the Museum does not develop one or the other. Under the Agreement, the City shall receive the land from The Developer and negotiate with the Museum on a development project. The Developer shall undertake the mapping and site work to create these parcels. It would be up to the City and Museum, under a separate agreement, to create a performance timetable for future Museum expansion. The City would also have the ability to find an intermediate use. In addition, it is likely that the Museum shall only develop one of the pads, not both, so the remainder pad presents another opportunity for the City to secure another cultural use or create an additional large public plaza.

Public Restrooms

There is a provision for the creation of public restrooms within the project, which the City would operate and maintain. The Agreement contains a legal description of the restroom space which the City would purchase.

Parking

The current estimate is that there is enough parking on site to accommodate all the proposed project uses, including the demand for movie theaters and other uses, even at peak times. The Agreement contains a parking agreement or covenant to allow the project to meet its zoning obligations regarding the provision of on-site or off-site parking.

All parking structure improvements shall be undertaken by the City upon its acquisition of the property. There is work to be done in the parking structure, including replacing the fire sprinklers and lights. There are some cost estimates available on whether any concrete needs to be repaired or structural work needs to be done, including any seismic work. Some reconfiguration of the parking structure shall also be necessary, in order to allow the construction of Belardo and the new Andreas Road on grade, as well

as some new building pads on grade.

There has been some public concern expressed about the way the existing parking structure was financed, and whether the City may have already "paid" for it once, only to have to purchase it back. That is, in fact, not true.

The bonds that paid for the parking structure constructed by DeBartolo were Certificates of Participation (COPs), in the amount of $23.5 million. COPs are a form of lease revenue bonds that are secured by a lease. DeBartolo, as the lessee, pledged to pay the annual debt service and would have received *all* right, title and interest to the property. The City was the issuer of the bonds but DeBartolo had the obligation to pay the debt service. In the event of paying the bonds off early, which occurred prior to DeBartolo's default on the shopping center financing, title to the structure would still not have flowed to the City. The City has never paid for the parking structure.

EIR Certification

Concurrently with approval of the Specific Plan, the Council approved and adopted Resolution 22625, which certified an Environmental Impact Report for the Specific Plan. Such Resolution included, without limitation, the making of amendments to the General Plan and Zoning Ordinance of the City, the making of certain findings relative to environmental effects identified in the EIR, the adoption of a Statement of Overriding Considerations, and the adoption of a Mitigation Monitoring Plan and Reporting Plan. The Resolution also included the incorporation of the Renovation Plan as an option, i.e., a potential "phase one" for remodeling the DFP Area.

Substantial Conformance of Revitalization Plan

The Project substantially conforms to the Palm Springs General Plan, specifically the adopted Museum Market Plaza Specific Plan, because the proposed Revitalization Plan meets both the guiding principles and the development standards and guidelines of the Specific Plan through a mix of retail commercial, resort hotel and residential uses on a grid of pedestrian-oriented streets and open spaces that together provide a fully functioning Downtown core that integrates well with surrounding streets and land uses.

Attachment No. 5

Project Feasibility Analysis and
Public Investment in Major Retail Shopping Centers

The Agreement is intended to make the overall development project feasible. Every previous Desert Fashion Plaza redevelopment proposal had a shortfall between the "after-development value" and the cost to construct, from the original AZ Partners project, the Excel Legacy project, and earlier Wessman proposals. The shortfall is not due to the size of the development company making the proposal, but any project would likely have a feasibility shortfall even if the City didn't require any additional design features or acquire any of the property.

The feasibility shortfall is due to the difference in cost between rebuilding the center (or tearing down and building new) and the capitalized value of the property based on future rents. In other words, the Project will simply cost more to build than it will be worth, once completed. To build a simpler, less expensive project does not necessarily diminish the need for assistance, as expected rents would also decline, thereby lowering the after-completion value of the property. In fact, an argument for the larger and denser projects proposed over the past several years, prior to this project, was that the potential profit from the sale of the condominiums (back when there was profit from the sale of condominiums) would have covered part or most of the shortfall. Those projects, of course, yielded to other community concerns over height, mass, and density, and ultimately the market turned as well.

Any other private developer on this property would face many of the same economic challenges this Developer faces in the capital market and in the leasing environment. In addition, bringing in a new developer would add a new cost of acquisition to the project's economics and could force another developer to maximize land use, since there are up to 1.7 million square feet allowed under the Specific Plan as a way of allowing more intense development to make the project economics more favorable.

Part of the process public agencies use to determine the appropriate level of public investment in a private development project is to have a third party consultant analyze all of the developer's numbers, such as their cost assumptions, proposed rents, absorption estimates, financing costs, and other items, and to test those numbers against other projects in the market. The Agency had previously used Keyser Marston Associates, Inc. of Los Angeles to analyze financial assistance requests from the previous proposers and owners of the Desert Fashion Plaza, including AZ Partners and, later, Excel Legacy. The purpose of using Keyser Marston to analyze the economics of the project was to determine the "warranted assistance" in the project: i.e. the financial assistance necessary make the project financially feasible, as shown in the project's own pro forma.

Keyser Marston provides the third party verification of the project's cost and revenue assumptions, based on their considerable experience in analyzing major retail shopping centers on behalf of public agencies in the California, Southern California and Coachella Valley markets. Public-private partnerships have been ongoing in California for more than 30 years, primarily through redevelopment agencies. In the last 10 to 15 years, sales tax sharing agreements between cities and private developers have also occurred.

Keyser Marston completed a preliminary pro forma analysis for the Phase I of the Project. The analysis found that, as currently proposed, the project generates approximately 4.8% in return to the Developer on total development costs, compared to the average threshold rate of return in the current investment marketplace, which is in the 9.5% range. Based on the development cost number, the Project is not financially feasible without significant public assistance.

Keyser Marston found the Developer's cost and revenue assumptions fell within the high end of the typical range for this type of development, but believed that it is appropriate, however, given the location and significance of the project in the community. They therefore used a majority of the Developer's cost assumptions in its analysis. The Developer used PENTA, a large, experienced general contractor, to determine all of the project costs. The development scope includes 246,612 square feet of gross building area, including retail, restaurant, office, and a movie theater. The Project involves demolition of most of the existing site, extensions of roadways through the site, landscaping/streetscape improvements, and public plazas. Parking will be provided in the existing parking facilities located on the site.

Keyser Marston estimated the total construction costs at $81 million, or $328 per square foot, including the off-site improvements, on-site improvements, demolition, façade improvement costs, shell costs, and tenant improvements. Keyser Marston added a 5% direct cost contingency. They estimated the indirect costs by applying industry standard cost ratios, and used the Developer's estimate for the cost of public permits and fees and for marketing and leasing costs, as well as adding a 5% indirect cost contingency. They estimated the financing costs assuming a 7% blended debt /equity rate and 2.0 points.

To determine the value of the Project, Keyser Marston estimated the Project's net operating income (NOI) using the Developer's assumptions for average monthly rental rates for the retail, restaurant, and office rents on a triple net basis (NNN). The projected rents are significantly above the current market average for Palm Canyon Drive of $1.50-$2.00 NNN but not significantly above new Class A space in the market. They included a 5% vacancy factor and a factor for unreimbursed operating expenses estimated at $9.00 per square foot of vacant space.

Based on their estimate of annual net operating income, and their data that indicates that currently investors are demanding an average return on total cost of 9.5% for

projects of this type, Keyser Marston determined that using this threshold rate of return, the Project generates a financial gap of approximately $25.4 million, before consideration of any land acquisition costs. The Developer estimated their land acquisition cost at $32 million, supported by their March 15, 2011 appraisal. The City has adjusted the land basis from $32 million to $20 million based on its own estimate of value. Therefore, the estimated total Project shortfall, including a $20 million adjusted land acquisition cost, is approximately $45.4 million.

If no financial assistance is provided, the Project would demonstrate a 4.7% return on total development, based on the projected NOI and the estimated total development cost, below the threshold likely to induce the private redevelopment of the Property.

Participation by Other Communities in Development/Redevelopment Projects

While each transaction has its nuances and complexities, there is significant precedent in California of agreements between major retail developers and public agencies in which public financial agencies provide financial assistance. Keyser Marston has been the financial advisor to the public agencies in several of these agreements.

How agreements are structured is almost as numerous as the number of communities structuring agreements. Like the proposed Agreement, many cities will use a combination of mechanisms that are available under the law, including the construction of public improvements, land acquisition and assembly, creation or provision of parking, rebates or deferrals of development fees, use of tax exempt financing such as Mello Roos bonds, rebates of tax revenue, the use of parking in-lieu fees, or project loans with deferred payment or other favorable terms. Agencies and cities have also layered in state and federal funding into projects, especially those with a transit (or transit-oriented development) component.

Locally, redevelopment agencies in Rancho Mirage have assisted projects such as The River, with a $16 million in assistance through land assembly and write-down as a way of reducing or eliminating feasibility gaps in this highly desirable project. Both are common and appropriate mechanisms for public participation in private development projects.

Cathedral City, as part of its downtown revitalization efforts, built their City Hall and adjacent parking structure in the downtown as a public investment there, and continues to directly subsidize both the Pickford Theaters and the IMAX Theater in an effort to maintain the forward momentum in its downtown.

Other examples of projects in California with significant public investment in other communities include:

- City Place, Long Beach. (1999-2005) This project is the most similar to Palm Springs in terms of development concept. The City of Long Beach and the Long Beach RDA, working with Developers Diversified Realty Inc., Coventry Long Beach (CLB),

and Hopkins Real Estate Group invested $19,300,000 into this $81,000,000 mixed use project, which included 475,000 square feet of retail and over 300 residential units on eight city blocks in the heart of Downtown Long Beach. It replaced an obsolete enclosed 700,000 square foot mall - the Long Beach Plaza - and reinvigorated retail, providing approximately 850 jobs for residents and additional tax dollars for the City and the Agency. Major City responsibilities included the renovation and improvement of the city-owned parking structures; issuance of an $11.1 million bond to retire the existing municipal debt on the Long Beach Plaza project ($5.23 million, including issuance costs of $1.9 million) and to fund parking improvements ($5.74 million); and an additional $5.0 million in financial assistance for traffic impact fees and roadway construction. The RDA commitments also included the conveyance of an additional nearby site to CLB, including the provision of $2.5 million in financial assistance. Interestingly, the most significant obstacle to the completion of the redevelopment agreement was the level of return CLB would receive as developer of the project. In exchange for the renovation, CLB's initial negotiation position was for a *12% guaranteed return, while the City/LBRA pushed for a non-guaranteed 11% return*. The land write-down on the conveyance of the International School Site pushed the estimated non-guaranteed return to 11.24%, an acceptable compromise for both parties.

- Americana at Brand (2001-2008). The Glendale Redevelopment Agency assisted Caruso Affiliated with $88,700,000 in public investment on a 15.5 acre pedestrian-oriented, open-air, mixed use center with emphasis on an open space network of landscaped streets, sidewalks and promenades. This $460 million center features over 431,000 square feet of commercial uses with stores, restaurants, and a cinema at street level, 238 rental units and 100 for-sale condominiums at upper levels, three acres of public open space featuring a children's play area, an animated water feature, free concerts, and community programs. The project created approximately 2,500 construction jobs and 1,500 permanent jobs and is expected to generate approximately $3.8 million annually from sales and property taxes.

- Fox Theater Renovation, Oakland (1996-2009). Oakland Redevelopment Agency/California Capital Group, Turner Construction. On February 5, 2009, the Bay Area celebrated the grand reopening of the historic Fox Oakland Theater in downtown Oakland. First opened in 1928, it has served as movie theatre, vaudeville house and live theater venue for many years. But, like most inner city theaters, it fell victim to the times and closed in 1973. The Oakland Redevelopment Agency purchased the blighted, vacant theater in 1996. The agency invested $50 million in equity and loans for its renovation, which included fully restoring the 3,000 seat performing arts theater, restaurant and bar. It is also a new home for the Oakland School for the Arts. The project also received $36 million in state and federal grants, Historic and New Market Tax Credit equity, and private capital financing. The project created 900 full time jobs during renovation and 110 permanent full time jobs. As a spillover benefit, seven new restaurants have opened within a five block area and existing nearby businesses already show increased sales.

- Westfield Galleria, Roseville (2000). City of Roseville assisted Urban Retail Properties, with the feasibility gap in the development of a fashion oriented shopping center, to be anchored by Nordstrom. As part of the business agreement, the City is reimbursing the developer tax revenue; there was no use of Redevelopment funds. The first priority on sales tax revenues generated by the project is to make outstanding debt payments on Mello-Roos Community Facilities District bonds used to fund public infrastructure improvements. The second distribution of sales tax revenues is to the City general fund. The third distribution is to repay the developer for development impact fees, which was expected to be repaid by 2010. Any remaining sales tax revenues are split 70% to the developer and 30% to the City until the termination of the agreement in 2017. The sales tax rebate is estimated to total $20 million. The City estimated that it would receive property tax revenues of approximately $180,000 per year from the project.

- Downtown Pleasant Hill (1997). The creation of Downtown Pleasant Hill in a formerly blighted project area was the culmination of nearly a quarter century of planning and redevelopment efforts by the City of Pleasant Hill and its Redevelopment Agency. In 1997, the Agency assisted BPP/Pleasant Hill, L.P. (Burnham Pacific Properties) develop a mixed-use, pedestrian oriented new downtown district, including 290,000 square feet of retail space and restaurants, plus a multiplex theater and private parking, including a 660 space garage. The amount of assistance was $13.75 million (plus interest). The Agency determined that the "excess" cost to acquire the 66 parcels comprising the commercial development site in the 33-acre project area and to relocate the businesses and residents would amount to $13,750.000, which represents the projected additional costs above purchasing a single tract of vacant land. In 1998, the City issued $14,085,000 in Assessment District Bonds to fund various public improvements benefiting the project, including the streets, utilities, and a 660-space parking garage. The Developer is responsible for debt service on the bonds, but the Agency rebates property tax increments produced by the project to the developer. The City retains the sales taxes (projected at $700,000 at the time of agreement).

- Bay Street Shopping Center, Emeryville (1999) The Emeryville RDA had pursued development of this high-profile site, formerly used for heavy industrial uses, into a major lifestyle shopping center and entertainment project. The Agency expended approximately $35 million, principally in land acquisition and assemblage, site clearance, toxic clean-up costs, and archaeological costs, to achieve a developable site to convey to the developer, Madison Marquette. The Agency conveyed the site for $5.1 million, plus an Agency Note with a 25 year term. The payments on the Note are a combination of fixed principal payments and fixed interest and participation interest based on the success of the project over a 25-year period. The estimate of the present value of the Note is approximately $11 million. Therefore, the net Agency investment is $19 million (the net $30 million Agency cost, less the value of the Agency Note). The City retains all the sales taxes and the Agency receives the incremental property taxes.

- First Street Streetscape Improvement Project, Livermore. (2000-2008) The Livermore Redevelopment Agency, working with the Chamber of Commerce, Cal Water, and PG&E, spent $23,650,000 redesigning and upgrading 1,500 linear feet of streetscape along First Street in the downtown area (central water feature, shade trees, new landscaping, benches, planter pots, information kiosks, large trellises, and enhanced street lighting). The RDA also acquired and developed land for the central plaza and a new 550-space parking garage and constructed a new pedestrian pathway from the parking structure to new housing projects. The benefit of the project, which facilitated private investment in the downtown, was that downtown retail vacancy rate fell to under 5% with addition of 100,000 square feet of retail in last 5 years, and average rents increased from $0.40-$0.60 per square foot to $3.20 to $3.50 per square foot during that time.

- Victoria Gardens, Rancho Cucamonga (2002) The Rancho Cucamonga Redevelopment Agency owned a site they wished to be developed as a "new downtown," with an open air town center and a "main street" consisting of a mixed use complex with major retail tenants, specialty commercial uses, restaurants and entertainment outlets, office uses, residential dwellings, and community facilities. The minimum project was to be a fashion oriented lifestyle center and include at least three major department stores (each with 80,000 square feet or more) and at least 360,000 square feet of other retail, restaurant, and entertainment uses. Robinsons-May was one of the original department stores, which is now a second Macy's store. The Agency provided Forest City Development with a $26,900,000 Agency contribution to fund feasibility gap: first the Agency conveyed the site at no initial cost with a $13,000,000 promissory note with a 30 year term. However, payment on the Note is based on a formula subject to the financial success of the project. The Agency also funded the cost of the community facilities, and the Developer funds $100,000 per year in operating expenses. The Agency anticipates that sales tax from the center would be approximately $2 million to $3 million per year, based on a 1,000,000 square foot center.

- Claremont Village Expansion (1996-2008). The Claremont Redevelopment Agency assisted the Olson Co., Arteco Partners, Tolkin Group, and Laemmle Theaters with $8,000,000 in public assistance to develop a mixed-use project downtown with residential, shops and offices. The project included the adaptive reuse of a packing house and included restaurants, shops, jazz club, museum of art and work-live lofts, plus a 477 space public parking structure and public plaza. It also expanded the number and types of businesses and enhanced the economic vitality of the community, added additional housing to downtown, and reused an underutilized industrial area.

- The Strand, Huntington Beach (1999-2009). The Huntington Beach Redevelopment Agency assisted CIM Group LLC with their $78,000,000 project with $950,000 of assistance. The project was a 2.97 acre mixed-use development featuring 110,000 square feet of office and retail space featuring national credit tenants; local art displays; the Shorebreak Hotel, a boutique hotel consisting of 157 rooms; Zimzala, a

restaurant featuring authentic coastal cuisine; and a public parking garage with 436 spaces. The project transformed a blighted area into gathering point and destination for families. The Agency worked in collaboration with the developer to develop four distinct buildings (hotel, retail, commercial, and restaurant components) linked by open-air pedestrian walkways. Agency participation of $950,000 in assistance was provided for 25 additional parking spaces in the parking garage, which will be structured as a loan; however, so far the Parking In-Lieu Fund has repaid $500,000 of the $950,000. The Agency's financial assistance is from tax increment generated from the project and from tax increment revenue generated within the Project Area.

- Alameda Theatre/Cineplex and Parking Structure (2005-2009). The Alameda Community Improvement Commission provided Alameda Entertainment Associates, Inc. $2,900,000 toward their $9,600,000 renovation of a 1932 movie palace turned into new 7-screen Cineplex, along with 340 space parking structure. The project created 200 new jobs, eliminated physical blight, and the City is more self sufficient keeping its sales tax dollars at home.

- Oakland Uptown Area Residential Development. This project opened in June 2009, and is a two-phase, multi-family, mixed-income project developed by Forest City Development. The Oakland Redevelopment Agency leveraged almost $200 million in state and federal grants as well as private equity from its $50 million investment. Much of the Agency's investment came through acquiring the dilapidated property, remediating it, and clearing it for development: nearly two city blocks of dilapidated, underutilized buildings, contaminated land, and vacant sites have been revitalized into a new, well-managed residential, transit-oriented district that is also becoming a center of commercial activity. Both phases of The Uptown Area Residential Development were major brownfield sites due to the presence of low-levels of lead, and former uses as a gas station, auto center, and car repair shops. Today, the area is a sustainable, transit-oriented development that balances public and private open space, and promotes use of public transportation. Phase II also features a residential complex designed for families, people with special needs, individuals, and seniors. The complex includes a childcare center, children's art space, a computer room, and laundry. . In addition, Phase I received LEED Silver certification and Phase II was a finalist for the Gold Nugget "Community of the Year" Award. The Uptown Area Residential Development has created a safe, livable transit-oriented community by designing buildings with an "eyes on the street" concept, providing pedestrian-friendly sidewalks, and incorporating public art. It is no longer a drain on the community but rather a place where residents enjoy life and contribute to the economic vitality of the area.

Returns to the cities are viewed in many ways, the most common of which is the achievement of a community vision. Public-private projects are intended to create a sense of place and enhancement of the image of the community that the private sector acting on its own could not otherwise create. Financial returns to cities can also be measured, typically through the annual sales taxes generated. Given that two separate appraisers considered the "highest and best use" of the property to hold it for several

years until the economy turns around, the choice facing the community is achievement of its vision through quality redevelopment of the property through public assistance, or status quo supported by market forces.

In the analysis, the Developer typically demonstrates the need for public investment by providing a feasibility analysis, including a pro forma and commitment of key tenants. The feasibility analysis often demonstrates that the cost to construct the project is greater than the private investment supported. From a public benefit perspective, the City normally retains the sales taxes while the Redevelopment Agency receives the incremental annual property taxes.

Attachment No. 6

Limitations on Potential Redevelopment Agency Participation

Compared to a number of other cities in the Coachella Valley, Palm Springs has a relatively small redevelopment agency. The Agency has never had the capacity to undertake a financial commitment this size. In addition, the Agency's Tax Increment has been reduced through the national and local decline in property values. Finally, the State of California has taken millions of dollars in redevelopment funds to balance its own budget through an assessment called "SERAF." The Agency has paid over $5,000,000 to the State over the past two years to cover those assessments.

On June 15, the California Legislature passed ABX1 26 and ABX1 27 as part of a larger package of budget bills intended to close California's approximately $9.6 billion budget deficit. ABX1 26 and ABX1 27 are so-called "trailer bills" which go along with, and help implement, the state budget bill. ABX1 26 eliminates all California redevelopment agencies ("RDAs") effective October 1, 2011. However, ABX1 27 provides that a California RDA can continue to operate and function after the October 1, 2011 elimination date if certain steps are taken by the applicable local jurisdiction, including passage of a local ordinance requiring the local jurisdiction to remit certain revenues to school entities and special districts. Taken together, the two bills effectively eliminate RDAs unless these agencies "voluntarily" turn over certain tax increment revenues for local government uses.

Most of the provisions of ABX1 26 are taken from Governor Brown's initial proposal to eliminate RDAs. ABX1 26 eliminates RDAs effective October 1, 2011, and protects only those "enforceable obligations" existing as of the date of the Governor's signature. ABX1 27 demonstrates that the motivation behind the elimination of RDAs is primarily budgetary. The Agency's payment due this year would be in excess of $3.4 million.

If the City "voluntarily" commits to make annual Department of Finance–calculated deposits into an Educational Revenue Augmentation Fund (ERAF) benefitting local schools and into a Special District Allocation Fund (SDAF) benefitting local special districts, then the Agency may continue to operate and function without regard to the October 1, 2011 elimination date.

Essentially, these ERAF and SDAF funding obligations are intended to plug the local jurisdiction's share of the approximately $5 billion in property tax revenues the Legislature believes are being diverted each year to RDAs. Since the Governor has signed both ABX1 26 and ABX1 27 as budget trailer bills, the Agency has no power to approve new projects, including any Project Financing Agreement for the Desert Fashion Plaza, effective immediately. The City will be able to restore such power by enacting an ordinance pursuant to ABX1 27, but due to timing issues under the bill it is unclear if it will be able to do so for several months. The ongoing uncertainty at the state level in the area of redevelopment makes relying on the Agency very problematic.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A PROJECT FINANCING AGREEMENT WITH PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY AT 123 NORTH PALM CANYON DRIVE, COMMONLY KNOWN AS THE DESERT FASHION PLAZA

The City Council of the City of Palm Springs finds:

A. The Property currently known as the Desert Fashion Plaza was constructed on the site of the former Desert Inn in 1966 and was originally called the Desert Inn Fashion Plaza.

B. In 1984 the City of Palm Springs and the Community Redevelopment Agency assisted the Edward J. DeBartolo Company renovate and expand the mall, including constructing a new store for Saks Fifth Avenue and developing an expanded I. Magnin space.

C. Due to its lack of retail success, the Desert Fashion Plaza went into foreclosure in late 1996, with the total defaulted loans at $51,698,096.

D. In early 1998, AZ Partners purchased the property for $13.5 million and proposed a $35-million redevelopment of the Desert Fashion Plaza.

E. In 1999 lender Excel Legacy Corp., terminated AZ Partners and proposed its own $64-million renovation of the Desert Fashion Plaza.

F. In mid-2000, Excel opted to sell the mall instead of developing it and in late 2001 Wessman Development Company (the "Developer") acquired the Desert Fashion Plaza from Excel.

G. A City Council Subcommittee was formed in 2004, to work with the Developer, and as part of its collaboration the City undertook demographic and movie theater market analysis and City officials participated in tenant meetings and worked on structuring a financial assistance package for the redevelopment of the property.

H. Comprehensive redevelopment plans were submitted by the Developer in April 2007, called Palm Grove.

I. In April, 2008, the Developer submitted the Museum Market Plaza plan, which replaced the Palm Grove plan.

J. On May 21, 2008, the City Council initiated a Specific Plan review process and directed staff to report on the conformance of the draft Museum Market Plaza Specific Plan with the Palm Springs General Plan, Downtown Design Guidelines and Palm Springs Zoning Code.

K. On November 18, 2009, the City Council certified an Environmental Impact Report, adopted a Statement of Overriding Consideration and Findings of Fact, and adopted the Museum Market Plaza Specific Plan ("Specific Plan"), including Amendments to the Palm Springs General Plan and the Palm Springs Zoning Code.

L. On December 2, 2009, the City adopted the Specific Plan as Ordinance 1764, and the Redevelopment Agency adopted the Specific Plan as the Design for Development for the Redevelopment Area Plan. In approving the Specific Plan and the Design for Development, the Council and Agency expressed their belief the adoption of the Specific Plan and Design for Development would provide a template for the redevelopment of the property with private development.

M. In January, 2010, the City and Developer began to negotiate a Development Planning Agreement ("DPA") that would provide essentially a set of mutually agreeable assumptions, timelines, and general requirements for the negotiation of both a Development Agreement and Owner's Participation Agreement for the redevelopment of the Desert Fashion Plaza; such efforts were not fruitful until February 2011

N. In August of 2010 the Redevelopment Agency of the City of Palm Springs Agency, advised the Developer that the Agency was unwilling to wait indefinitely for the Developer to propose and demonstrate financial capacity to redevelop the Desert Fashion Plaza and subsequently authorized the preparation and completion of a fair market value appraisal of the property and in December authorized the Executive Director to make an offer to purchase the entire property, beginning a sequence of events that could have lead to an eminent domain action on the part of the Agency.

O. In January of 2011 the City and the Developer commenced negotiations on appropriate agreements and related documents for the implementation of the DFP Area in a manner consistent with the Specific Plan.

P. The parties acknowledge that redevelopment of the DFP Area pursuant to the Specific Plan is critical to restoring economic vitality to downtown Palm Springs, and

that successful redevelopment will require public-private participation as provided and contemplated herein.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Palm Springs, as follows:

SECTION 1. The above recitals and the Staff Report dated July 20, 2011 and the attachments thereto are true and correct and incorporated herein.

SECTION 2. The Project Financing Agreement between the City of Palm Springs and Palm Springs Promenade, LLC, attached and incorporated herein by reference, is hereby approved.

SECTION 3. Project Description. Under this Project Financing Agreement the Developer shall construct Phase I of the Revitalization Plan project, which includes the demolition of most of the retail properties of the mall, the development of new retail buildings on Palm Canyon Drive, a new Museum Way from Palm Canyon Drive to the Art Museum, a reconnection of Belardo Road, new public spaces, and new movie theaters. The Project Description for the Agreement covers Phase I of the Revitalization Plan, which is the portion of the project covered in the feasibility analysis but does not include the future buildings on Blocks D, E, or G. Later phases of the Project may occur years later.

A significant part of the structure under the Agreement shall be the acquisition of certain real property at the site. These include: (1) the real property containing the above ground parking structure, as well as the surface and underground level of the parking at the southwest corner of the site; (2) the underground parking structure beneath the developed shopping center; (3) the two possible "museum expansion" sites; (4) the improved streets created by the project described as the Museum Street and the Belardo extension; and (5) new public restrooms. The City's development cost would include the cost of constructing public streets and the refurbishing of the underground parking structure.

SECTION 4. Existing Site. The existing Desert Fashion Plaza is spread over 13 acres, located between North Palm Canyon Drive, Tahquitz Canyon Way, Museum Drive, Belardo Road, and Amado Road. The current development has more than 288,000 square feet of enclosed retail and circulation space, including 115,000 square feet of three former anchor tenants — Saks Fifth Avenue (50,000 square feet), I. Magnin (40,000 square feet), and Bank of America (25,000 square feet).

SECTION 5. Street Grid. The entire street grid created by the Project and conveyed to the City will be designed with landscaping, architectural shading and decorative interlocking pavers, and no curbs, to maximize its use for events. All of the

street grid will be available to be closed off for special events and public activities. It is appropriate urban public space for an urban environment.

SECTION 6. Parking. The project also includes 1,061 parking spaces (282 at-grade, 670 below-grade, and 109 above-grade). A parking garage accessed from Museum Drive is located in the site's northwest corner. An underground parking garage extends from beneath the northern portion of the property to its southwest corner. All parking structure improvements shall be undertaken by the City upon its acquisition of the property. Some reconfiguration of the parking structure shall also be necessary, in order to allow the construction of Belardo and the new Andreas Road on grade, as well as some new building pads on grade.

SECTION 7. Museum Parcels. The City shall acquire two parcels as potential Palm Springs Art Museum sites, located at the far western end of the project, which shall be restored to "original" landscaped condition, free of debris and repainted, broken concrete repaired. Under the Agreement, the City shall receive the land from the Developer and negotiate with the Museum on a separate development project.

SECTION 8. Public Restrooms. There is a provision for the creation of public restrooms within the project, which the City would operate and maintain. The Agreement contains a legal description of the restroom space which the City would purchase.

SECTION 9. Terms of Project Financing Agreement. The total development cost of Phase I of the Revitalization Plan is in excess of $100 million. The Agreement provides for an estimated amount of City participation, including the construction of public infrastructure and the acquisition of certain public properties DESCRIBED IN Section 3 of this Resolution, of approximately $42 million.

SECTION 10. The City has structured the project contribution as follows:

1. The City would deposit the amount of $32 million in a project-related escrow account, under the terms described below; and
2. The City would undertake the construction of the streets and the improvement of the parking facilities, at an estimated cost of $10.8 million;
3. In return for its contribution toward making the Project economically feasible, the City would receive title to all of the Project's parking (surface, underground, and structure) as well as the land underneath the streets and the restroom site and building.

SECTION 11. Phase I of the Revitalization Plan sets a schedule for completion of the core and shell improvements (retail and office along Palm Canyon, the street

infrastructure, the museum expansion sites, and the movie theaters) by December 2014.

SECTION 12. California Environmental Quality Act. Pursuant to the California Environmental Quality Act (CEQA), the City Council finds the concurrently with approval of the Specific Plan, the Council approved and adopted Resolution 22625, which certified an Environmental Impact Report for the Specific Plan. Such Resolution included, without limitation, the making of amendments to the General Plan and Zoning Ordinance of the City, the making of certain findings relative to environmental effects identified in the EIR, the adoption of a Statement of Overriding Considerations, and the adoption of a Mitigation Monitoring Plan and Reporting Plan. The Resolution also included the incorporation of the Renovation Plan as an option, i.e., a potential "phase one" for remodeling the DFP Area.

SECTION 13. General Plan Conformance. The Project substantially conforms to the Palm Springs General Plan, specifically the adopted Museum Market Plaza Specific Plan, because the proposed Revitalization Plan meets both the guiding principles and the development standards and guidelines of the Specific Plan through a mix of retail commercial, resort hotel and residential uses on a grid of pedestrian-oriented streets and open spaces that together provide a fully functioning downtown core that integrates well with surrounding streets and land uses.

SECTION 14. Zoning Code Compliance. Staff has analyzed the proposed Agreement against these findings, which require that the Agreement:

i. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

The Project Financing Agreement cites the Museum Market Plaza Specific Plan as the land use plan to be used in the development of the affected property. The Specific Plan was adopted by the City Council in November 2009 as both a General Plan and Zoning amendment for the subject sites. Consequently, the Project Financing Agreement can be determined to be consistent with the objectives, policies, general land uses and programs of the City's adopted land use documents.

ii. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

The Museum Market Plaza Specific Plan sets forth the authorized uses and prescribed regulations for the land use district in which the subject property is located. The Project Financing Agreement specifically cites this Specific Plan as the controlling land use document for future development. Consequently the proposed Agreement can be determined to be compatible with the authorized uses and prescribed land use regulations.

iii. *Is in conformity with public convenience, general welfare and good land use practice;*

The proposed Project Financing Agreement will provide for the implementation of the Museum Market Plaza Specific Plan and thereby provide a comprehensive redevelopment of the center of City's downtown area. The coordinated arrangement of buildings, roads, open space, parking and existing surrounding land uses is provided for in this Specific Plan in a manner which assures the long-term environmental, economic and social well being of the community. Consequently, the proposed Project Financing Agreement can be determined to be in conformity with public convenience, general welfare and good land use practice.

iv. *Will not be detrimental to the health, safety and general welfare;*

The Project Financing Agreement will implement both the Museum Market Plaza Specific Plan as well as the associated Mitigation Measures of the certified Environmental Impact Report that was prepared for the Specific Plan. Consequently, the proposed Project Financing Agreement can be determined to not be detrimental to the health, safety and general welfare of the community and surroundings.

v. *Will not adversely affect the orderly development of property or the preservation of property values.*

The Project Financing Agreement is specifically intended to provide for the orderly development of property in the downtown by establishing a means to implement the Museum Market Plaza Specific Plan. Further, the comprehensive redevelopment of the site as provided by the Agreement will provide a stable long-term development environment for the site and surroundings, thereby reducing uncertainty for the property owner, owners of adjacent properties and the community. Consequently, the proposed Project

Financing Agreement can be determined to not adversely affect the orderly development of property or the preservation of property values.

SECTION 15. The City Council of the City of Palm Springs authorizes the City Manager or his designee to execute, in the name of the applicant, the required documents.

ADOPTED THIS _____day of _____, 2011.

_____
David H. Ready, City Manager

ATTEST:

_____
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. ____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
James Thompson, City Clerk
City of Palm Springs, California

DRAFT PROJECT FINANCING AGREEMENT (07.14.2011)

THIS PROJECT FINANCING AGREEMENT ("Agreement"), dated this __ day of July, 2011, is entered into by and between the City of Palm Springs, a California municipal corporation and charter city ("City"), and Palm Springs Promenade, LLC, a California limited liability company ("Developer"), with reference to the following:

RECITALS

A. On December 2, 2009, the City adopted, by unanimous vote of the City Council, Ordinance 1764, which approved the Museum Market Plaza Specific Plan ("Specific Plan"). The Specific Plan covered two existing downtown commercial areas, i.e., the area commonly known as Desert Fashion Plaza ("DFP Area"), and the area commonly known as the Town and Country Center ("The Center"). This Agreement relates only to the DFP Area, which is owned by PSP LLC, and does not include The Center.

B. The Parties have long recognized that redevelopment of the DFP Area is critical to restoring economic vitality to downtown Palm Springs, and that successful redevelopment will, as is almost always the case with downtown areas, require public-private participation and funding.

C. In early 2011, the Mayor and City Council commenced a series of "visioning" sessions with community leaders and concerned citizens. As a result of that effort, concepts evolved and subsequent to the "visioning" sessions have been refined and finalized into a plan ("Revitalization Plan"), which is depicted on the "Project Site Plan" attached hereto as Exhibit "A" and described in the "Project Description" attached hereto as Exhibit "B" (the "Project").

D. In order to evaluate economic feasibility of the Revitalization Plan, and determine the extent of required public participation, the City engaged Keyser Marston Associates, Inc. ("KMA"), a qualified and reputable public financial consultant that has worked with City on many prior occasions. At the request of City, KMA proceeded to analyze projected redevelopment costs and post redevelopment rental revenues in order to determine the extent to which public participation would be required for the Project. KMA projected that the total redevelopment project costs would be at least $100 million dollars. Using conservative but reasonable assumptions with respect to construction costs and rental revenues, KMA determined that $40 to $45 million dollars in public participation would be necessary to fund the Project.

E. Based on the foregoing, but subject to the City identifying sources of funding as provided in Section 1.A.(1)(a) below, the parties have agreed to proceed with the Revitalization Plan. City will provide up to $43 million dollars for
the City to acquire assets as referenced in this Agreement, create and refurbish public improvements as depicted on the Project Site Plan and described in the Project Description ("Public Improvements"), and to fund project incentives for the completion of the Project.The Developer will create and refurbish private improvements as depicted on the Project Site Plan and described in the Project Description ("Private

Improvements"). In view of the fact that private vertical development of Blocks D, E, F, and G will be deferred for future "phases", completion of Private Improvements as and to the extent referenced in Section 2 of the Project Description could be, and sometimes are, referred to as "Phase 1" of the Revitalization Plan. Nothing in this Agreement obligates the City to fund or contribute to any future "phases" of Private Improvements. The funds provided under the terms of this Agreement will not be used in conjunction with development on Lots K-1 or K-2.

F. City Acquisition of Public Assets. The Revitalization Plan calls for the City to acquire certain assets ("Public Assets"), as follows:

1. Land. Land to be acquired by the City ("Land") includes (a) land located under proposed new public streets as depicted on the Project Site Plan and described in the Project Description; (b) land located below the three level parking structure at the northwest corner of the DFP Area; (c) land located below the two level parking structure at the southwest corner of the DFP Area; (d) land located below the underground parking garage that connects said three level parking structure and said two level parking structure; and (e) land shown as Blocks H-1 and H-2 on the Project Site Plan. Legal descriptions covering the Land, and each portion thereof, shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution. The Parties acknowledge that the California Subdivision Map Act allows conveyances to public agencies such as the City without the necessity of subdivision or parcel map recordation and, therefore, the parties agree that conveyances to the City per this Agreement may be made without such map recordation.

2. Parking Facilities. Existing parking facilities to be acquired and refurbished by the City and then used for free public parking ("Parking Facilities") include: the three level parking structure located at the northwest corner of the DFP Area; the two level parking structure located at the southwest corner of the DFP Area; the underground parking garage that connects said three level parking structure and said two level parking structure; parking below developed portions of the DFP Area, and all associated ramps, driveways, connection tunnel, approaches, elevators and escalators. Legal descriptions covering the Parking Facilities shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution. Such legal descriptions may include three dimensional diagrammatic plans that describe airspace areas to be acquired by the City.

AGREEMENT

1. Acquisition of Public Assets. Upon and subject to the terms and provisions of this Agreement, City shall acquire the Public Assets.

A. Acquisition Escrow. At least ten (10) days prior to the Effective Date of this Agreement, an escrow ("Acquisition Escrow") shall be opened by the Parties with a mutually agreeable and reputable escrow holder ("Escrow Holder"), and City and Developer shall each execute and deliver escrow instructions consistent with this Agreement and as reasonably requested or required by the Escrow Holder.

(1) Contingencies to Close of Acquisition Escrow. Close of the Acquisition Escrow is subject to satisfaction of each of the following contingencies:

(a) City Funding. A first contingency to close of the Acquisition Escrow shall be the City identifying funding sources for its obligations under this Agreement. City is currently exploring potential sources of funding for this and other desired public projects. In any event, if, by December 21, 2011, City has not (i) identified funds sufficient to cover its obligations under this Agreement, or (ii) been placed in a position of being reasonably certain that such funds will promptly (within 150 days) be identified and/or reserved, then, in that event, City shall have the right, by delivery of written notice to Developer by no later than December 22, 2011 (the "Effective Date"), to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement. In the event the City identifies and/or reserves a source or sources of funding its obligations under this Agreement, the City will deposit with Escrow Holder the amount of $32 million dollars ("City's Payment") within a reasonable time after the City has identified and reserved such funds.

(b) Condition of Title. A second contingency to close of the Acquisition Escrow shall be the conveyance to City of good and marketable title to the Public Assets, as evidenced by a CLTA title insurance policy (with such title endorsements as City may reasonably request or require) issued by a mutually agreeable and reputable title insurance company ("Title Company"). In this regard, the parties acknowledge that prior to the Effective Date, City will receive, review, and approve, with modifications, a pro forma of a title insurance policy that shall be issued to City upon close of the Acquisition Escrow. City shall specify in writing the City's disapproval of any item or exception, including any encumberance of any kind, shown on such pro forma of title insurance together with the City's suggested cure thereof. In the event the City reasonably determines that the title to the Public Assets and Land requires modification or is otherwise inconsistent with good and marketable title to the Public Assets and/or the Land, City shall have the right, by delivery of written notice to Developer by no later than September 30, 2011, to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement.

(c) Physical Condition. A third contingency to close of the Acquisition Escrow shall be the conveyance to City of the Public Assets, in substantially the same physical condition that exists as of the Effective Date of this Agreement. In this regard, the parties acknowledge that prior to September 30, 2011, City and its independent consultants will perform thorough examinations of such Public Assets, and approved the existing physical condition thereof, with the understanding that such assets shall be conveyed "as is" and "with all faults", so long as the City reasonably determines that such physical condition, including without limitation the estimates of costs of repair and rehabilitation or renovation as identified by Developer's consultant, PENTA, and submitted to the City prior to execution of this Agreement ("Developer's Disclosure"). In the event the City reasonably determines that the physical condition of the Public Assets, or any portion thereof, is materially inconsistent with the Developer's Disclosure, City shall have the right, by delivery of written notice to Developer by no

later than September 30, 2011, to terminate this Agreement and cancel the Acquisition Escrow, without penalty or any damages for breach of any term of this Agreement. An increase in the estimated cost of a Public Asset of 5% or more above the PENTA estimate shall be deemed materially inconsistent with the Developer's Disclosure. Nothing in this Agreement shall prohibit the Parties from renegotiating any or all terms of this Agreement prior the City exercising its rights under this Section of the Agreement, which may include Developer paying the cost of any increase in the estimated cost. In the event the acquisition Escrow closes, the City shall be solely responsible for creating and refurbishing Public Improvements as contemplated herein.

(2) Close of Acquisition Escrow. Promptly upon satisfaction of each and all of the above contingencies or upon the Effective Date, whichever event occurs last, the Acquisition Escrow shall be closed and conveyances and transfers shall occur as follows:

(a) Public Assets to City. Upon close of the Acquisition Escrow, good and marketable title to the Public Assets shall be conveyed to City, and City shall receive title insurance consistent with the provisions of paragraph (1) (a) of this Section of the Agreement as referenced above.

(b) City Payment. Upon close of the Acquisition Escrow, the City Payment shall be transferred by Escrow Holder directly into the Improvement Escrow referenced below, and then be released therefrom, in increments, based on periodic written authorizations from the IFC Agent referenced in Section 2.B.(2) below, to go solely towards creation and refurbishment of the Private Improvements.

2. Creation and Refurbishment of Public and Private Improvements. Once the Acquisition Escrow has been closed, the parties shall continue with implementation of the Revitalization Plan, and creation and refurbishment of Public Improvements and Private Improvements, in general accordance with the provisions of this Agreement. As indicated in Section 1.c of the Project Description, City shall be solely responsible for creation and refurbishment of the Public Improvements, and, as indicted in Section 2.i of the Project Description, Developer shall be solely responsible for creation and refurbishment of Private Improvements. As used herein, with respect to Public Improvements, "creation" means demolition and construction work sufficient to install and complete the new public streets referenced in the Project Description, and, with respect to Private Improvements, "creation" means demolition and construction work sufficient to install and substantially complete new buildings in Blocks A-2, C, and F, refurbish existing buildings in Block A-1, and finished pads for future vertical development in Blocks D, E, and G, as referenced in the Project Description. As used herein, with respect to Public Improvements, "refurbishment" means rehabilitation of the parking improvements to be acquired by the City to a top quality, clean, safe, and operable condition, and, with respect to Private Improvements, "refurbishment" means upgrading the existing building in Block A-1 with new facades, as referenced in the Project Description. The parties agree to work cooperatively together and exert commercially reasonable efforts to cause the Public Improvements and Private Improvements to be completed concurrently. Upon completion of the Public

Improvements, Developer shall execute and deliver to City a written certificate or acknowledgment of completion, in form and substance reasonably satisfactory to City, and, upon completion of the Private Improvements, City shall execute and deliver to Developer a written certificate or acknowledgment of completion, in form and substance reasonably satisfactory to Developer.

A. Open Improvement Escrow. Concurrently with close of the Acquisition Escrow, the Improvement Escrow shall be opened and all funds from the Acquisition Escrow shall be deposited directly into the Improvement Escrow, and then be released, in increments, based on periodic written authorizations from the IFC Agent referenced in Section 2.B.(2) below, to go solely towards creation and refurbishment of the Private Improvements. The Improvement Escrow shall be administered pursuant to the terms of the "Improvement Escrow Agreement" attached hereto as Exhibit "C".

B. Schedule of Performance. With respect to the creation and refurbishment of Public Improvements and Private Improvements, Developer and City have approved and agreed to the "Schedule of Performance" attached hereto as Exhibit "D". In general, Developer shall be responsible for Private Improvements, and City shall be responsible for Public Improvements. In this regard, the parties contemplate and have agreed to actions and procedures as follows:

(1) Demolition of Bank of America Building. Once the City funding contingency, as referenced in Section 1.A.(1)(a) above, has been satisfied, then Developer shall, at Developer's sole cost and expense, within sixty days thereafter, commence and complete demolition of the existing Bank of America building in the DFP Area.

(2) Selection of IFC Agent. Once the City has advised Developer that the City funding contingency has been satisfied, City and Developer shall promptly select and enter into a written contract with a mutually acceptable and reputable independent fund control agent ("IFC Agent"), with general construction experience, that shall be responsible for authorizing periodic releases, in increments, of funds from the Improvement Escrow, to go solely towards creation and refurbishment of the Private Improvements.

(3) Architectural Approvals for Private Improvements. Once the IFC Agent has been engaged, Developer shall select and enter into contracts with project consultants (planners/architects/engineers) ("Project Consultant's Agreements") as necessary to prepare plans and designs necessary to obtain architectural approvals for the Private Improvements from the City Planning Department and City Council. All costs and expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(4) Building Permits for Private Improvements. Once architectural approvals for Private Improvements have been received, Developer shall select and enter into contracts with project consultants (planners/architects/engineers) as necessary to prepare final plans and working drawings necessary obtain building permits from the City Building Department to construct the Private Improvements. All costs and

expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(5) Commencement of Private Improvements. Once building permits have been issued, Developer shall select and enter into contracts with construction entities (contractors/subcontractors/materialmen) and commence creation and refurbishment of the Private Improvements. All costs and expenses in this regard shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow.

(6) Completion of Private Improvements. Developer shall be responsible for completion of the Private Improvements, and shall commence depositing additional private funds into the Improvement Escrow, from time to time as and when needed, to be used to complete creation and refurbishment of the Private Improvements. Prior to the Close of the Acquisition Escrow, Developer shall make an initial deposit of at least $2 million dollars into the Improvement Escrow. All costs and expenses for the completion of the Private Improvements shall be paid, upon release authorizations by the IFC Agent, from funds in the Improvement Escrow. The obligations of Developer under this Agreement, including the prompt deposit of all additional private funds necessary to complete creation and refurbishment of the Private Improvements, shall be personally guaranteed in a form as provided in Exhibit "_" to this Agreement ("Personal Guarantee"), by John Wessman, principal of Developer. The Personal Guarantee will be secured by a pledge of unencumbered real property, the value of which will at least equal the amount of Developer's obligations under this Agreement, as mutually determined by the Parties. Developer agrees that no loan of any kind will be placed against the DFP Area or any portion of the DFP Area until all Private Improvements referenced in the Project Description, i.e., Phase 1 of the Revitalization Plan, have been completed. For purposes of this restriction, Private Improvements do not include tenant improvements, except with respect to the multi-plex theater which will have tenant improvements and become fully operable as part of the Revitalization Plan.

(7) Public Improvements. City shall be solely responsible for creation and refurbishment of all Public Improvements, and all costs associated therewith. In this regard, City agrees, from and after closing of the Acquisition Escrow, to promptly and diligently pursue creation and refurbishment of all Public Improvements, and to coordinate construction and all other scheduling with Developer so that the Public Improvements are completed concurrently with the Private Improvements. Upon substantial completion of the Public Improvements, the City shall be released, except for "punchlist" items, from any and all further obligations, under this Agreement or otherwise, to create and/or refurbish Public Improvements, or any other improvements.

C. Close Improvement Escrow. Upon substantial completion of all Private Improvements, the Improvement Escrow shall be closed and Developer shall be released, except for "punchlist" items, from any and all further obligations, under this Agreement or otherwise, to create and/or refurbish Private Improvements, or any other improvements.

3. City Option to Purchase DFP Area upon Developer Default. Anything in this Agreement to the contrary notwithstanding, the following shall apply:

A. Default by Developer – Opportunity to Cure. From the close of the Acquisition Escrow until substantial completion of the Private Improvements, if Developer fails to diligently do and perform all things reasonably necessary on the part of Developer to pursue creation and refurbishment of the Private Improvements, including failure to timely achieve "major milestones" described in the Schedule of Performance, then, in that event, City shall be entitled to deliver to Developer written notice of default, specifying, in detail, all facts alleged by City to constitute such default. For a period of 120 consecutive days after receipt of such notice of default, Developer shall have the right to commence and complete cure of the alleged default; provided, however, if the default is of such a nature as to reasonably require more than 120 days to cure, as reasonably determined by the City, Developer shall have such additional time as is reasonably necessary to complete such cure.

B. Developer Failure to Cure – City Option to Purchase. If, at the expiration of the applicable cure period, Developer has not reasonably completed such cure, then, in that event, City shall have the right and option, for a period of 180 days thereafter, to purchase from Developer Blocks A-1, A-2, C, and F of the DFP Area and any and all improvements then in existence thereon ("Option Property"). Such option may be exercised by written notice of exercise delivered by City to Developer at any time during such 180 day option period. In the event of exercise of such option by City, the following shall apply:

(1) Price. The price to be paid by City to Developer ("Option Price") shall be established in accordance with the following: The appraised fair market value of the Option Property shall be determined as of the date of option exercise, as follows: City shall select an MAI appraiser and Developer shall select an MAI appraiser and each appraiser shall prepare an appraisal. Each appraisal shall include the cost, sales comparison, and income capitalization approaches in estimating the fair market value of the Option Property. The two appraisers shall meet and confer and attempt to reconcile any differences between their two appraisals, and reach a final agreed upon appraised value. If such appraisers are unable to so agree, then they shall select a third MAI appraiser, who shall review the two appraisals and select one or the other of the two appraisals, and the decision of the third appraiser in that regard shall be binding and final.

(2) Opening of Option Escrow. As soon as the price has been determined as provided above, a new and separate escrow ("Option Escrow") shall be opened with the Escrow Holder, and City and Developer shall each promptly execute and deliver instructions consistent with the terms hereof and as reasonably requested or required by the Escrow Holder, and the purchase and sale shall be consummated and close of the Option Escrow shall occur as expeditiously as possible. At closing, good and marketable title, as evidenced by a CLTA title insurance policy (which includes any endorsements reasonably requested or required by City) shall be conveyed to City, as follows: Such conveyance shall be free and clear of any monetary encumbrances, except for real property taxes and assessments which are a lien not yet due and payable, but shall be subject to non-monetary matters of record and/or apparent. At close of the Option

Escrow, all applicable construction warranties shall be assigned to the City. If, at close of the Option Escrow, creation and refurbishment of Private Improvements are in progress, City shall, as of that point, assume responsibility for completion of the Private Improvements (or, at the sole discretion of the City, sale of the project "as is" to a third party developer), and Developer shall have no further responsibility or obligation in that regard. If, at close of the Option Escrow, any portion of the City's Payment (funds provided by City per Section 1.B.(2)(b) above) that remains in the Improvement Escrow, such funds shall, from that point, belong to City, and Developer shall have no further claim to such funds.

C. Assignment of Project Consultant's Agreements. With respect to each project consultant for any portion of the Project, Developer shall, in accordance with the Schedule of Performance, execute and deliver to the City the Assignment of Project Consultant's Agreements, Plans, Specifications, and Permits (With each propject consultants consent and certificate) in substantially the form and substance of Exhibit " " (the "Assignment of Project Consultant's Agreement") executed by Developer and each such Project Consultant. The Assignment of Project Consultant's Agreement grants to the City, in the event of termination of this Agreement by the City and exercise of the City's Option to Purchase pursuant to this Agreement, the Developer's rights to: (a) the plans and specifications prepared pursuant to this Agreement; (b) the agreements between Developer and its project consultants; and (c) all permits and entitlements relating to the Project.

4. Miscellaneous Specific Provisions. The parties further agree to miscellaneous additional provisions as set forth below.

A. Local Requirements Applicable to Agreement. This Agreement is subject to the City's General Plan, the Museum Market Plaza Specific Plan, the Palm Springs Municipal Code and ordinances, and the Redevelopment Plan for Merged Area No. 1, with respect to the Project ("Governmental Regulations").

B. City Fast Track Process. The City shall use good faith efforts, within applicable legal constraints and consistent with applicable City policies, to take such actions as may be necessary or appropriate to effectuate and carry out this Agreement in a timely and commercially reasonable manner and to reasonably "fast track" the processing of all applications submitted by Developer to pursue the Revitalization Plan and/or create and refurbish the Private Improvements.

C. Subdivision Issues. The parties acknowledge and agree that the California Subdivision Map Act allows, without the necessity of recording a subdivision or parcel map, conveyances to and from public agencies such as the City, and leasing and financings of portions of parcels of property designated for commercial use. Nevertheless, in connection with pursuit and implementation of the Revitalization Plan, Developer may desire to record one or more subdivision or parcel maps against the DFP Area (or portions thereof). In this regard, the parties agree to cooperate with each other, and the City agrees to reasonably "fast track" the processing of any subdivision or parcel map desired by Developer (including any vesting tentative map), and to promptly provide and issue certificates of compliance as and to the extent reasonably necessary or expedient as determined by the City

D. Covenants, Conditions, and Restrictions. Concurrently with the execution of this Agreement, City and Developer shall execute and cause to be recorded, with the Official Records of Riverside County, California, a set of covenants, conditions, restrictions, and easements to put in place, among other things, easements relating to maintenance, repair, use, and operation of the Parking Improvements as provided in Exhibit " " to this Agreement.

E. Escrow Matters. In the event of any inconsistency between the terms of this Agreement and the terms of any escrow instructions executed pursuant to this Agreement, the terms of this Agreement shall control unless a contrary intent is clearly expressed in the inconsistent escrow instructions. All escrow fees, charges, and title insurance costs for any escrow or title insurance called for herein shall be shared equally by the parties. Unless otherwise provided herein, Escrow Holder shall process and handle all escrow matters contemplated herein in the manner that is customary in the Coachella Valley area of Riverside County.

F. Eminent Domain. Prior to entering into this Agreement, City expressed a desire to acquire all property covered by the Specific Plan by use of powers of eminent domain, and Developer expressed an intent to oppose any such effort. In that regard, this Agreement represents a negotiated compromise between City and Developer and, as a part hereof, City agrees as follows: In the event this Agreement is terminated by City as the result of the inability of City to identify and reserve City funding, as referenced in Section 1.A.(1)(a) above, City shall not, for a period of three (3) years following such termination, directly or indirectly or in any way, attempt to take or acquire all or portions of any properties or improvements covered by the Specific Plan via use or exercise of eminent domain, or any similar or related public power or powers of the City. The covenants and agreements of City pursuant to this Section 4.E shall survive and remain in effect for a period of three (3) years from and after any such termination by City.

G. Developer Right of First Refusal for Blocks H-1 and H-2. In the event that at any time in the future, City elects to sell Blocks H-1 and/or H-2, as shown on the Project Site Plan, or portions thereof, for private purposes, i.e., for purposes other than public or non-profit purposes, Developer shall have a right of first refusal to match any offer received by City, and to purchase such Blocks H-1 and/or H-2, in accordance with the following: City shall promptly notify Seller that City has received an offer that it desires to accept and, concurrently therewith, provide Developer with an exact copy of such offer, and Developer shall have, for a period of sixty (60) days after receipt, the right to notify that Developer desires to match the terms of such offer and purchase the property. In such event, an escrow shall be promptly opened and closed with a reputable escrow company and City shall sell (and convey good and marketable title to) the property to Developer. Legal descriptions covering Blocks H-1 and H-2 shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution.

H. Developer Right of First Refusal for Museum Drive. In the event that at any time in the future, City decides to abandon portions of Museum drive located

adjacent to O'Donnell Golf Course, as shown on the Specific Plan, and sell same, or portions thereof, for private purposes, i.e., for purposes other than public or non-profit purposes, Developer shall have a right of first refusal to match any offer received by City, and to purchase such property in the same manner as contemplated for purchase of Blocks H-1 and/or H-2, as provided in Section 4.F above. Legal descriptions covering such property shall be separately verified, signed and attached to this Agreement prior to or concurrently with final execution.

Not a Development Agreement. This Agreement is not a development agreement as provided in Government Code Section 65864 and is not a grant of any entitlement, permit, land use approval, or vested right in favor of the Developer or the Project.

5. Miscellaneous General Provisions.

A. Entire Agreement. This Agreement (together with a Reimbursement Agreement and a Confidentiality Agreement previously entered into between City and Developer) contains the entire agreement of the parties with respect to matters covered herein, and there are no other agreements or representations, written or oral, other than as contained herein.

B. Cooperation. Each party agrees to and shall do and perform such other and further acts and properly execute and deliver such other and further documents as may be reasonably necessary, expedient or convenient to implement the intents and purposes hereof.

C. Reasonable Approvals. Whenever this Agreement requires or calls for the approval or consent of any party hereto, such approval shall not be unreasonably withheld, delayed, or conditioned.

D. Binding Arbitration. In the event of any dispute or controversy arising out of or relating to this Agreement, or the breach or performance of it, the Parties shall reasonably attempt to resolve each such dispute or controversy without resort to third party review or resolution. The Parties shall first meet and confer on any such dispute or controversy. Such meetings shall include any principal of the Developer and at the discretion of the City may include the City Manager and/or the City Council either as a whole or through an ad hoc subcommittee designated by the City Council. Upon the Parties determination that the Parties are unable to resolve the dispute or controversy on their own, the Parties shall submit the dispute, controversy, or any remaining disputed matterbinding arbitration, to be held in the Coachella Valley, and be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association.

E. Legal Fees. In the event of any dispute, arbitration or litigation arising out of or relating to this Agreement, or the breach or performance of it, the prevailing party shall be entitled to recover, in addition to any other appropriate relief, reasonable legal fees and costs incurred in connection therewith.

F. Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of such party's obligations under this

Agreement is caused by any event described below, where any such event is beyond the control of the claiming party and such party's contractors and consultants and is not due to an act or omission of the claiming party or such party's contractors or consultants, and such event directly, materially and adversely affects (a) the ability of the claiming party to meet its non-monetary obligations under this Agreement, including deadlines imposed by the Schedule of Performance, or (b) the ability of the claiming party to complete improvements (Private Improvements in the case of Developer and Public Improvements in the case of City), and which event (or the effect thereof) could not have been avoided by due diligence and use of reasonable efforts by the claiming party:

(1) Unusually Severe Weather: weather conditions not reasonably anticipatable for that portion of the City of Palm Springs where the downtown area is located, based upon U.S. Weather Bureau climatological reports for the months included and a report indicating average precipitation, temperature, etc., for the previous ten (10) year period from the nearest weather reporting station;

(2) Civil Unrest: an epidemic, blockage, quarantine, rebellion, war, insurrection, act of terrorism, strike or lock-out, riot, act of sabotage, civil commotion, act of a public enemy, or freight embargo;

(3) Unforeseeable Conditions: reasonably unforeseeable physical conditions of the existing DFP Area or improvements thereon, including the presence of hazardous materials, as defined by applicable state and federal laws and regulations;

(4) Casualty: fire, earthquake, flood or other casualty, in each case only if causing material physical destruction or damage to improvements (Private Improvements in the case of Developer and Public Improvements in the case of City);

(5) Litigation: any lawsuit seeking to restrain, enjoin, challenge or delay the issuance of any entitlement, or restraining, enjoining, challenging or delaying construction of improvements ((Private Improvements in the case of Developer and Public Improvements in the case of City), which is vigorously defended by the claiming party and which is finally determined in a manner which restricts the ability of such party to perform its material obligations hereunder, or which results in a injunction against such party restricting its ability to so perform during the pendency of such injunction and which directly impairs the ability of the claiming party to perform despite commercially reasonable efforts to do so;

(6) Change of Law: the passage of a referendum or initiative that results in the inability of the claiming party to perform its material obligations hereunder; and/or

(7) Conduct by Other Party: conduct (action or inaction) by the other party which delays the ability of the claiming party to perform its material obligations under this Agreement, but only during periods in which such conduct (action or inaction) actually delays such performance.

G. No Partnership. Notwithstanding language in this Agreement referring to "public-private participation", or words or similar import, it is aknowledged that the relationship of the City to the Developer is neither that of a partnership nor that of a joint venture and that neither the City nor the Developer shall be deemed or construed for any purpose to be the agent of the other Party, and neither Party shall have the power or the authority to speak on behalf of the other Party or to bind the other Party to any contractual or other obligations. The Developer shall not at any time hold itself out to the City or to any other third party as an agent of the City, as applicable, and shall not, by any act or omission, mislead any third party into believing, or allow any third party to continue in the mistaken belief, that the Developer is an agent of the City or has the power or authority to bind the City to any contractual or other obligation.

H. Binding on Successors. This Agreement shall be binding on the parties hereto, their heirs, successors and assigns.

I. Independent Legal Representation. Each party hereto has, at all times during the negotiation and execution of this Agreement, been represented by independent legal counsel.

J. Incorporation of Recitals and Exhibits. All recitals herein and all Exhibits attached hereto are incorporated into and made a part of this Agreement.

K. Captions and Headings. Any captions or headings in this Agreement are for convenience only, and shall not be used to determine or construe meanings of substantive language herein.

L. Applicable Law. This Agreement is entered into in California, and relates to California real property, and shall be determined in accordance with the laws of the State of California.

M. Venue. In the event of any arbitration or litigation arising out of or relating to this Agreement, or the breach or performance of it, any such arbitration shall be conducted in the Coachella Valley, and any such litigation shall be filed in the Indio Branch of the Riverside County Superior Court.

N. Severability. In the event any provisions of this Agreement is deemed or construed by arbitration or a court of competent jurisdiction to be unenforceable, the remaining provisions shall nevertheless remain binding and enforceable to the maximum extent possible.

O. Interpretation. This Agreement and language herein has been prepared and agreed to by both parties, and any rules of contract interpretation calling for construction against one party or the other based on drafting, shall be inapplicable.

P. Notices. As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder. All notices shall be in writing and shall be considered given either: (i) when

delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown in the records of the telegraph company after transmission by telegraph to the recipient named below. All notices shall be addressed as follows:

If to City:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, California 92262
Attn: City Manager
Telephone: (760) 322-8350
Facsimile: (760) ___-____

Copy to:
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, California 92262
Attn: City Attorney
Telephone: (760) 323-8211
Facsimile: (760) 323-8207

If to Developer:
Palm Springs Promenade, LLC
555 South Sunrise Way, Suite 200
Palm Springs, California 92264
Attn: John Wessman
Telephone: (760) 325-3050
Facsimile: (760) 325-5848

Copy to:
Ealy, Hemphill & Blasdel, LLP
71780 San Jacinto Drive, Suite I-3
Rancho Mirage, California 92270-5518
Attn: W. Curt Ealy
Telephone: (760) 340-0666
Facsimile: (760) 340-4666

Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change

Q. Authority. Each party represents and warrants to the other that such party has full right, power and authority to sign, execute and enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and made it effective as of the day and year set forth above.

DEVELOPER: PALM SPRINGS PROMENADE, LLC
A California limited liability company
By: _____
Title: _____
Dated: _____

CITY: CITY OF PALM SPRINGS
A California municipal corporation and charter city
By: _____
Title: _____
Dated: _____

ATTEST: _____
City Clerk

APPROVED AS
TO LEGAL FORM: _____
City Attorney

Schedule of Performance

Project Financing Agreement

City approves or disapproves PFA and, if approves, executes PFA	**September 7**
City completes detailed structural inspection of the parking structure to determine if estimated cost of improvements is excessive	**October 31**
City waives its right to terminate Agreement based on inability to identify source of public financing	**December 21**
Developer contracts with architectural firm to produce Major Architectural Modification Plan/Tentative Map, Preliminary PDD	**April 15**
Opening of Escrow: The City and Developer open escrow for conveyance of the parking structure and other public sites to the City.	**April 1**
Developer commences demolition of Bank of America building.	**January 21, 2012**
Close of Escrow, recordation and delivery of documents.	**April 15, 2012**
Submission – Tentative Tract Map/Major Architectural Approval Application for Blocks A-1, A-2, C and F and street grid.	**April 24, 2012**
Approval by City Council – Tentative Tract Map and Major Architectural Approval	**June 6, 2012**
Submittal of Construction Documents. Developer submits Construction (Building and Engineering) Plans and Grading Plan.	**May 17, 2013**
Commencement of Construction of Developer's Improvements.	**August 15, 2013**
Substantial Completion of Construction of Developer's Core & Shell Improvements	**December 15, 2014**

09/07/2001
ITEM 4.A

RECEIVED
CITY OF PALM SPRINGS
2011 SEP -6 AM 10: 54
JAMES THOMPSON
CITY CLERK

Date: September 5, 2011

To: Palm Springs City Council, City Manager

From: Sheryl Hamlin

RE: Items relating to the Desert Fashion Plaza on September 7th Agenda

4.A. APPROVE A PROJECT FINANCING AGREEMENT BETWEEN THE CITY OF PALM SPRINGS AND PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED AT 123 NORTH PALM CANYON DRIVE:

This document has significantly improved since the July 20th version, but there are still outstanding questions.

On Parcel 6, a new multiplex theatre is mentioned. Is there a tenant? If so, the lease should be part of the trustee holdings in escrow. If the lease fails or is canceled, the PFA should be canceled and eminent domain or default initiated. Why would we build a multi-plex theatre without a tenant?

The Performance Deed of Trust is a good addition to the process, but why was the milestone timeline on page 22 (12) of the July staff report deleted? This timeline is essential.

The phrase "balance due as its bid for the property" under the discussion about default is not specific. As I understand the proposal, the city is to deposit $32 million in the escrow. What if $10 million has been drawn down leaving a balance of $22 million? Would the bid for entire property be $22 million? The process of default needs clarification with respect to the price.

As for the $32 million the city will deposit into escrow, what is the source of these funds? The 1% tax will produce this amount in 4-5 years. Does the city plan to borrow these funds or do these funds now exist?

With a project cost of $100 million and the city paying $11 million for its improvements, this leaves a balance of $89 million to be borne by Wessman Development. If the city pays WD $32 million, this leaves a balance of $57 million for WD to borrow. Who would loan WD this amount particularly when it has given three projects (Bounders, Crescendo and Von's Rimrock) back to their respective banks for sale and two others (St. Baristo and Campanile) have never been completed. WD should be required to place in escrow all letters of intent regarding financing for his portion of the project. Lack of such letters would trigger default.

Additional Material
Items 4A, 4B, 4C.
9/7/11

Section 10 says that the city's participation makes the project "economically feasible". This statement tells me that there are no buyers for this property nor will there ever be buyers. The statement from Keyser Marston in the July version (not included in the September version) is particularly distasteful as a taxpayer. I will quote:

> *"Keyser Marston completed a preliminary pro forma analysis for the Phase I of the Project. The analysis found that, as currently proposed, the project generates approximately 4.8% in return to the Developer on Total development costs, compared to the average threshold rate of return in the current marketplace, which is in the 9.5% range. Based on the development cost number, the Project is not financially feasible without significant public assistance."*

As far as I can determine, returns on such projects are close to zero now or negative considering they are non-existent. None of the comps shown in the July version of this report are recent history. Why does Keyser Marston feel that Palm Springs owes Wessman Development a return on this property for which there are NO buyers other than the city?

The article below from the OC Register says that shopping center construction has come to a halt due to vacancy rates in Orange County.

http://articles.ocregister.com/2010-05-06/housing/24551924_1_new-retail-space-central-county-new-shopping-centers

> 'Moratorium' hits new shopping centers
> May 06, 2010|By Property of The OC Register
>
> Construction of new shopping centers has all but halted in Orange County as retail vacancy rates continued to climb this year and lease rates continued to fall, commercial brokerage CB Richard Ellis reported.
>
> Orange County has gone for a 1 1/2 years without seeing construction start on a single new retail center, the brokerage reported.
>
> All work stopped in late 2009 on the 191,000-square-foot Pacific City project in Huntington Beach, a 31-acre development on Pacific Coast Highway featuring shopping, plazas, restaurants and office space.
>
> A total of 1.8 million square feet of additional store space remains in the planning phase, some of which have been put on hold indefinitely, the firm said. It added:....

Does the council of have information to the contrary about increased retail development in California?

4.B. COMMUNITY REDEVELOPMENT AGENCY HEARING FOR A RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF THE DESERT FASHION PLAZA AND THE TOWN AND COUNTRY CENTER:

Why would the city council consider abandonment of the Resolution of Necessity? Eminent domain should be part of the default process available to the city. A three year hold on this is bad policy for the city. Remember, there are no other buyers for this property.

"The redevelopment of the Desert Fashion Plaza has been a priority of the Agency for the past 30 years" according to the document. So WHY would the city allow another three years to pass by dismissing the possibility of eminent domain?

Where are the comps for the appraisal? These should have been in the document in July and have not been included in the September document. All of these documents should be republished and made available for the next city council meeting and the entire discussion put on hold until then.

4.C. DISCUSSION ON THE CITY COUNCIL CREATION AND APPOINTMENT OF A CITIZENS AND COMMUNITY MEASURE "J" OVERSIGHT COMMITTEE:

This document is blank, but I feel that the fact that council's indication of the need for this committee gets to the heart of the issue of Measure J.

The downtown merchants are desperate for foot traffic from this empty hole in downtown, so they view Measure J as a way to facilitate its development, but there is nothing in the language of the measure that gives the downtown development priority.

Councilman Hutcheson said during the July meeting 'give a politician money and they will spend it'. This is what has people worried. They want action on the DFP and because of the language of the measure and subsequent discussion, there is a cloud on the measure.

Michael G. Briski Esq.
Attorney at Law
3417 Andreas Hills Drive
Palm Springs, CA 92264
Tel 760-235-4828
Email: mbriski@dc.rr.com

RECEIVED
CITY OF PALM SPRINGS
2011 SEP -1 PM 2:00
JAMES THOMPSON
CITY CLERK

September 1, 2011

Clerk of the City
Redevelopment Agency of the City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs CA 92262

Dear Clerk of the Agency;

Enclosed please find the original and six copies of a communication addressed to David H. Ready Esq. Ph.D. City Manager/Executive Director of the Agency. Please deliver the original letter to him and the five copies to the respective members of the Council in advance of the scheduled Agency meeting set for September7, 2011. An additional copy is for your file.

Thank you,

Michael G. Briski

Michael G. Briski J.D.

Additional Material
Item 4.A.
9/7/11

Michael G. Briski Esq.
Attorney at Law
3417 Andreas Hills Drive
Palm Springs, CA 92264
Tel 760-325-4828
Email: mbriski@dc.rr.com

September 1, 2011

David H. Ready Esq. Ph.D. City Manager/ Executive Director
Redevelopment Agency of the City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs CA 92262

RE: A PROJECT FINANCING AGREEMENT BETWEEN THE CITY OF PALM SPRINGS AND PALM SPRINGS PROMENADE, LLC FOR THE REDEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED AT 123 NORTH PALM CANYON DRIVE

Dear Mr. Ready:

As City Manager and Executive Director of the Redevelopment Agency of the City of Palm Springs you are hereby notified, as principal agent for the City and the Agency that the City's approval of the above entitled financing agreement will be in violation of the legislative stay enacted by the State of California Health and Safety Code section 34161- 34167 enacted as part of the legislation reorganizing or abolishing of Redevelopment agencies.

Although the Supreme Court of the State of California has issued a stay and order to show cause, as to the validity of the enactment, it has denied the stay of Division 24, Part 1.8 of the Health and Safety Code (Health & Saf. Code 3416-34167).

Health and Safety Code 34161- 34167 provide in part:

34161 "...no agency shall incur new or expand existing monetary or legal obligations except as provided in this part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part" (eff. June 29,2011)

34162 "...an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

(1) Issue or sell bonds, for any purpose regardless of the source of repayment of the bonds....

(2) Incur indebtedness payable from prohibited sources of repayment...

(6) Pledge or encumber, for any purpose, any of its revenues or assets. ...include, but are not limited to, agency tax revenues, redevelopment project revenues, or other agency revenues...

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect."

The Legislature and the Supreme Court by their actions have stayed any Redevelopment Agency from proceeding in any way that would conflict with the provisions of 30461-31467. Any such action be void.

Therefore, you are requested to cease and desist from action in violation of the Laws of the State of California enacted to resolve the economic calamity of our State. The legislative finding and declarations appearing in the Historical and Statutory Notes to H & S 34161 & 33500 reflect the intent of the legislature addressing this calamity. The City is a part of this great State and must work for the benefit of our common communities. It is quite apparent from the actions of the City that the Council is attempting to fast track this redevelopment project when the law precludes such action.

Your action in approving the above referred to financing agreement, in advance of the Supreme Court's ultimate decision in this matter, would be in violation of State law and void at this time pursuant to the code sections and the Courts action indicated above.

Respectfully

Michael G. Briski

Michael G. Briski J.D.

cc: City Council Members

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME

ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt #: 201100748

State Clearinghouse # (if applicable): 2008061084

Lead Agency: CITY OF PALM SPRINGS *Date:* 09/13/2011

County Agency of Filing: Riverside *Document No:* 201100748

Project Title: PROJECT FINANCING AGREEMENT WITH PALM SPRINGS PROMENADE LLC

Project Applicant Name: CITY OF PALM SPRINGS *Phone Number:*

Project Applicant Address: P.O. BOX 2743 PALM SPRINGS, CA 92263-2743

Project Applicant: Local Public Agency

CHECK APPLICABLE FEES:

- ☐ *Environmental Impact Report*
- ☐ *Negative Declaration*
- ☐ *Application Fee Water Diversion (State Water Resources Control Board Only)*
- ☐ *Project Subject to Certified Regulatory Programs*
- ☒ *County Administration Fee* $64.00
  - ☐ *Project that is exempt from fees (DFG No Effect Determination (Form Attached))*
  - ☐ *Project that is exempt from fees (Notice of Exemption)*

Total Received $64.00

Signature and title of person receiving payment: Anderson

Notes:

RECEIVED
CITY OF PALM SPRINGS
2011 OCT 31 AM 9:27
JAMES THOMPSON
CITY CLERK

NOTICE OF DETERMINATION

To:

_x_ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA. 95814

_x_ County Clerk
P.O. Box 751
Riverside, CA 92502-0751

From:

City of Palm Springs
Department of Planning Services
P.O. Box 2743
Palm Springs, CA 92263-2743

FILED
RIVERSIDE COUNTY
SEP 13 2011
LARRY W. WARD, CLERK
By R. Anderson Deputy

Subject:
Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Applicant Name: City of Palm Springs & Palm Springs Promenade, LLC

Address: 123 North Palm Canyon Drive, Palm Springs, CA 92262
Telephone Number: (760) 323.8245 & (760) 325-3321
Project Title: Project Financing Agreement with Palm Springs Promenade LLC

2008061084	Edward O. Robertson	760-323-8245
State Clearinghouse No. (If submitted to Clearinghouse)	Lead Agency Contact Person	Area Code/ Telephone

Project Location: Northwest corner of North Palm Canyon Drive and Tahquitz Canyon Drive, Palm Springs, California, Riverside County.

Project Description: A project financing agreement between the City of Palm Springs and Palm Springs Promenade, LLC, for the redevelopment of certain real property at 123 North Palm Canyon Drive, commonly known as the Desert Fashion Plaza

This is to advise that the City of Palm Springs has approved the above-described project with approval effective on September 7, 2011, and has made the following determinations regarding the above described project:

1. The project [__ will _X_ will not] have a significant effect on the environment.
2. _X_ An Environmental Impact Report was prepared for this project pursuant to provisions of CEQA.
   __ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [__ were _X_ were not] made a condition of the approval of the project.
4. A Statement of Overriding Considerations [__ was _X_ was not] adopted for this project.
5. Findings [_X_ were __ were not] made pursuant to the provisions of CEQA.

This is to certify that the [__ Negative Declaration _X_ Final EIR with comments and responses and record of project approval] is available to the General Public at:

City of Palm Springs, Department of Planning Services, 3200 E. Tahquitz Canyon Way, Palm Springs, California

Signature (Public Agency)	September 07, 2011 **Date**	Principal Planner **Title**

COUNTY CLERK
Neg Declaration/Ntc Determination
Filed per P.R.C. 21152
POSTED
SEP 13 2011
Removed: 10.21.11
By: _____ Dept.
County of Riverside State of California

NOTICE OF DETERMINATION

To:

_x_ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA. 95814

_x_ County Clerk
P.O. Box 751
Riverside, CA 92502-0751

FILED
RIVERSIDE COUNTY
DEC 03 2009
LARRY W. WARD, CLERK
By M. Meyer
Deputy

From:

City of Palm Springs
Department of Planning Services
P.O. Box 2743
Palm Springs, CA 92263-2743

RECEIVED
CITY OF PALM SPRINGS
2010 JAN 20 AM 10: 42
JAMES THOMPSON
CITY CLERK

Subject:
Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

COUNTY CLERK
Filed per P.R.C. 21152
POSTED
DEC 03 2009
Removed: 1-5-10
By: _____ Dept.
County of Riverside, State of California

Applicant Name: Wessman Holdings, LLC

Address: 300 South Palm Canyon Drive, Palm Springs, CA 92262
Telephone Number: (760) 325-3321
Project Title: The Museum Market Plaza Specific Plan

2008061084	Edward O. Robertson	760-323-8245
State Clearinghouse No. (If submitted to Clearinghouse)	Lead Agency Contact Person	Area Code/ Telephone

Project Location: Northwest corner of North Palm Canyon Drive and Tahquitz Canyon Drive, Palm Springs, California, Riverside County.

Project Description: The project is a Specific Plan adopting policies and development standards for a master planned, mixed use project to include retail, office, high density residential and resort development on 18.5 acres. The project site is bounded by Andreas Road on the north, Tahquitz Canyon Way on the south, Museum Drive on the west, and Indian Canyon Drive on the east.

This is to advise that the City of Palm Springs has approved the above-described project with approval effective on November 18, 2009, and has made the following determinations regarding the above described project:

1. The project [_X_ will __ will not] have a significant effect on the environment.
2. _X_ An Environmental Impact Report was prepared for this project pursuant to provisions of CEQA.
   __ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [_X_ were __ were not] made a condition of the approval of the project.
4. A Statement of Overriding Considerations [_X_ was __ was not] adopted for this project.
5. Findings [_X_ were __ were not] made pursuant to the provisions of CEQA.

This is to certify that the [__ Negative Declaration _X_ Final EIR with comments and responses and record of project approval] is available to the General Public at:

City of Palm Springs, Department of Planning Services, 3200 E. Tahquitz Canyon Way, Palm Springs, California

Edward O. Robertson	December 03, 2009	Principal Planner
Signature (Public Agency)	Date	Title

==========

12/03/2009 ** REPRINT ** 02:01PM

RECEIPT # 275917

Larry W. Ward
Riverside County
Clerk and Recorder
2724 Gateway Drive
Riverside, CA 92507
(951)486-7000
www.RiversideACR.com

FROM : F&G 209 00862
BY : MAMEYER

FISH FISH & GAME	2832.25
TOTAL FEE ---->	2832.25
AMOUNT (Check) RECEIVED ---->	(2832.25)
CHANGE -------->	0.00

1 Check Received
Check #7562

*** RECEIPT ***

==========

ENCY

RECEIPT

Receipt #: 200900862

State Clearinghouse # (If applicable): 2008061084

ANNING *Date:* 12/03/2009

Document No: 200900862

ZA SPECIFIC PLAN

GS, LLC *Phone Number:*

YON DR PALM SPRINGS CA 92262

	2768.25
(State Water Resources Control Board Only)	
Project Subject to Certified Regulatory Programs	
☒ *County Administration Fee*	$64.00
☐ *Project that is exempt from fees (DFG No Effect Determination (Form Attached))*	
☐ *Project that is exempt from fees (Notice of Exemption)*	
Total Received	2832.25

Signature and title of person receiving payment: M. Mz

Notes:

7562

CITY OF PALM SPRINGS
CITY TREASURER'S REVOLVING FUND
PALM SPRINGS, CA 92262

DATE DECEMBER 1, 2009

16-66/1220 CA
1431

PAY TO THE ORDER OF RIVERSIDE COUNTY CLERK $ 2,832.25

TWO THOUSAND EIGHT HUNDRED THIRTY-TWO AND 25/100 DOLLARS

Bank of America
CA Gov't Middle Market
888 South Hope Street
Los Angeles CA

FOR File Notice of Determination for Market Museum Plaza