



Community Redevelopment Agency Staff Report

DATE: February 18, 2009

Hearing: 1A

SUBJECT: JOINT PUBLIC HEARING OF THE COMMUNITY REDEVELOPMENT AGENCY AND THE CITY COUNCIL CONSIDERING THE APPROVAL OF THE FIRST AMENDMENT TO A DISPOSITION AND DEVELOPMENT AGREEMENT WITH ENDURE, LLC (FORMERLY GEIGER, LLC) THAT AUTHORIZES THE AGENCY TO PAY \$1,385,000 TOWARDS THE \$13,000,000.00 IN COSTS FOR REMEDIATION AND MONITORING THE SITE OF A 393,000 SQUARE FOOT RETAIL SHOPPING CENTER AT THE NORTHEAST CORNER OF RAMON ROAD AND GENE AUTRY TRAIL (Highway 111) IN THE CITY OF PALM SPRINGS, MERGED REDEVELOPMENT PROJECT AREA NO. 1.

FROM: David H. Ready, City Manager

BY: Thomas Wilson, Assistant City Manager

SUMMARY

Approval of the proposed First Amendment to the Disposition and Development Agreement between the Community Redevelopment Agency and Endure, LLC (formerly Geiger, LLC), that authorizes the Agency to pay \$1,385,000 over five years, with no interest, towards the over \$13,000,000 costs for remediation and monitoring the site of a 393,000 square foot retail shopping center at the northeast corner of Ramon Road and Gene Autry Trail.

RECOMMENDATION:

1. Open the joint public hearing and receive public testimony;
2. [Community Redevelopment Agency] Adopt Resolution No. ___ "A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS APPROVING THE FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH ENDURE LLC (FORMERLY GEIGER LLC) FOR THE DEVELOPMENT OF THE SPRINGS PROJECT;"

3. [City Council] Adopt Resolution No. ___ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONCURRING WITH THE COMMUNITY REDEVELOPMENT AGENCY REGARDING THE APPROVAL OF AMENDMENT NO. 1 TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH ENDURE, LLC (FORMERLY GEIGER, LLC.);"

4. [Community Redevelopment Agency] Authorize the City Manager to execute a budget transfer of \$277,000 from unallocated capital outlay funds to an account established for the purposes of executing this agreement.


STAFF ANALYSIS:

On November 16, 2005, the Agency entered into a DDA with Geiger LLC (now Endure, LLC) for the sale of Agency land and the development of entire site as a commercial retail center currently referred to as the "Springs" at the northeast corner of Ramon Road and Gene Autry Drive. At the time the DDA was entered into, the value of the Agency's 14 acres was valued at \$4,480,000 and the cost to Geiger LLC to remediate the property was estimated at \$4,605,108, however, the total costs for the remediation and continued monitoring of the entire site is in excess of \$13,000,000.

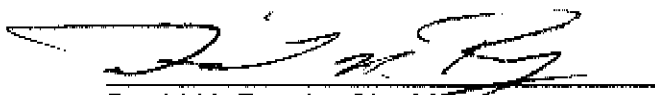
The proposed amendment would provide for Agency payment towards the total cost of remediation and monitoring. Under the proposed amendment, the agency would pay \$277,000 a year for five years for a total of \$1,385,000. Under this formula, the value of the land plus the Agency payment towards the remediation and monitoring of the site would still be less than one-half of the total cost of remediation.

FISCAL IMPACT

This expense is being paid for from unallocated capital outlay funds in Merged Area #1.


Thomas Wilson, Assistant City Manager


Geoffrey Kiehl, Finance Director


David H. Ready, City Manager

RESOLUTION NO. ____

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS APPROVING THE FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH ENDURE LLC (FORMERLY GEIGER LLC) FOR THE DEVELOPMENT OF THE SPRINGS PROJECT.

The Community Redevelopment Agency of the City of Palm Springs ("Agency") finds:

A. On November 16, 2005, the Agency and Geiger LLC, now known as Endure, LLC, ("Developer") entered into a Disposition and Development Agreement ("DDA") for the sale of Agency real property and the development of a commercial retail center commonly referred to as the "Springs."

B. The Agency property was formerly a landfill and required extensive remediation of soil conditions to make the property marketable and suitable of commercial use. Developer has incurred over \$13,000,000 in total costs for the remediation of the property. The proposed amendment to the DDA would authorize the Agency to pay \$1,385,000 towards the cost of remediation and ongoing monitoring costs in five equal annual payments of \$277,000, without interest. The Agency's payment towards remediation and monitoring costs added to the fair market value of the land of \$4,480,000 is less than half of the total cost of remediation that the Developer paid at its sole cost and expense.

C. The Agency reaffirms its findings as contained in Resolution No. __ approving the original DDA, and finds that such findings remain fully applicable to the current situation and the First Amendment to the DDA.

NOW, THEREFORE, the Community Redevelopment Agency of the City of Palm Springs resolves:

1. The First Amendment to the Disposition and Development Agreement with Endure LLC (formerly Geiger LLC) is approved.

2. The Executive Director of the Agency or his designee is authorized to execute all necessary documents, in a form approved by Agency Counsel.

ADOPTED this 18th day of February, 2009.

AYES:

NOES:

ABSENT:

ATTEST:

COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF PALM SPRINGS,
CALIFORNIA

By: _____
James Thompson
Agency Secretary

Stephen P. Pougnet
Chair

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FO THE CITY OF PALM SPRINGS, CALIFORNIA, CONCURRING WITH THE COMMUNITY REDEVELOPMENT AGENCY'S APPROVAL OF THE FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH ENDURE LLC (FORMERLY GEIGER LLC).

NOW, THEREFORE, the City Council of the City of Palm Springs resolves and concurs with the action of the Community redevelopment Agency in its approval of the First Amendment to the Disposition and Development Agreement with Endure LLC (formerly Geiger LLC).

ADOPTED this 18th day of February, 2009.

AYES:

NOES:

ABSENT:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

By: _____
James Thompson
City Clerk

David Ready
City Manager

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**



CITY CLERK'S DEPARTMENT
James Thompson, City Clerk


Date: February 18, 2009

Subject: Amendment No. 1 to A0503 a DDA with Geiger LLC
City Council and CRA Joint Public Hearing

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached will be published in the Desert Sun on January 31, and February 7, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

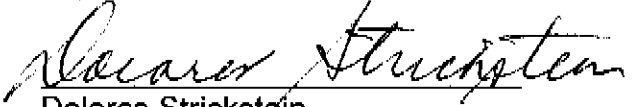


Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Dolores Strickstein, Secretary, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on January 30, 2009.

I declare under penalty of perjury that the foregoing is true and correct.



Dolores Strickstein
Secretary

CITY OF PALM SPRINGS
AND
COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF PALM SPRINGS

NOTICE OF JOINT PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council ("City") and Community Redevelopment Agency ("Agency") of the City of Palm Springs will hold a Joint Public Hearing at 6:00 p.m., Wednesday, February 18, 2009, in the Council Chamber at 3200 East Tahquitz Canyon Way, Palm Springs, California 92262.

The purpose of the hearing is to consider the approval of Amendment No. 1 to Agreement No. A0503, a Disposition and Development Agreement, with Geiger, LLC.

The Agency proposes to amend the existing Disposition and Development Agreement with Geiger, LLC, to provide for the reimbursement of certain costs for the landfill remediation and the operation of the landfill monitoring system.

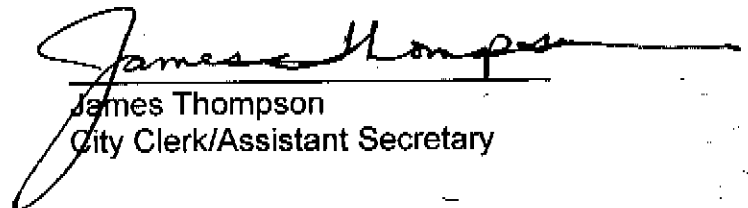
Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City/Agency of the City of Palm Springs by letter (for mail or hand delivery) to:

James Thompson
City Clerk/Assistant Secretary
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/Assistant Secretary at, or prior, to the public hearing. (Government Code Section 65009(b)(2)).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Thomas J. Wilson, Assistant City Manager, (760) 323-8248.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono 760-323-8241.


James Thompson
City Clerk/Assistant Secretary

**AMENDMENT NO. 1 TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

This Amendment is entered into this 18th day of February, 2009, by and between the Community Redevelopment Agency of the City of Palm Springs, a California community redevelopment agency ("Agency"), and Endure Investments, LLC (formerly Geiger, LLC), a Nevada Limited Liability Company ("Developer"), with reference to the following facts:

A. On November 16, 2005, Agency and Developer entered into a Disposition and Development Agreement (the "DDA") with regard to the development of 393,000 square foot retail shopping center ("Project") on an approximately 37 acre site (the "Site"), commonly referred to as the "Springs Shopping Center."

B. Under the provisions of the DDA, the Agency agreed to sell @ 14 acres of the Site to the Developer at no cost to the Developer in recognition of the Developer's substantial costs in the remediation of the Site. Pursuant to the Summary Report issued in 2005 at the time the DDA was approved, the Developer incurred \$4,605,108 in pro-rated remediation costs, which exceeded the fair market value of the land of \$4,480,000. The parties have subsequently acknowledged that the total remediation costs for the Site, including on-going monitoring expenses, are in excess of \$13,000,000. The parties agree that the Site would not have been marketable or usable for any economic purpose if the Site had not been remediated and that the Agency should pay a portion of the remediation and monitoring costs which were necessarily incurred to make the Site usable. The parties agree that the sum of \$1,385,000, payable in five equal installments, without interest, is a fair and equitable payment towards the remediation and monitoring costs of the Site.

C. The development of the Project and the payment of Agency funds towards the remediation and monitoring of the Site, including Agency owned land, as provided for in this First Amendment is in the vital and best interest of the City and the welfare of its residents and is in accordance with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the parties hereto agree as follows:

1. Section 4.3 is added to the DDA to read:

4.3 Agency Payment Toward Remediation and Monitoring Costs. Agency shall pay to Developer the sum of \$1,385,000.00 in five equal annual installments, without interest. The first annual payment will be made on or after March 1, 2009, at the direction of the Executive Director, and on each subsequent March 1 each year thereafter until the full amount has been paid to the Developer. The payments provided under this Section shall be deemed a payment towards the total remediation and monitoring costs incurred by the Developer on the Site and those costs were and are

