First American Title Company
500 South Palm Canyon, Suite 210
Palm Springs, CA 92264
(760) 469-8895
Fax - (866) 302-6799

PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

To: **First American Title Company, Escrow Holder**
Sharon Elkins, Escrow Officer

File No.: **RIW-4765919 (SE)**
Date: **November 10, 2014**
Estimated Closing Date: **December 31, 2014**
Purchase Price: $**5,300,000.00**

Re: **Block E of Palm Springs Promenade, Palm Springs, CA 92262**
("Property") City of Palm Springs ("Buyer")
Palm Springs Promenade, LLC ("Seller")

This escrow has been opened pursuant to Section 3 that certain agreement entitled "**Fourth Amendment to Project Financing Agreement**" ("PFA 4") dated as of **October 30, 2014** by and between the above Buyer and Seller (collectively the "Parties") on the Property described above and as further legally described in the Preliminary Report issued in connection with this escrow. The terms and conditions of PFA 4 and the terms of this Purchase Agreement are incorporated herein by reference and also constitute instructions to Escrow Holder.

The Buyer and Seller agree that Block E, as shown on the attached Site Plan (Exhibit "A"), shall be conveyed by Seller and acquired by Buyer in fee and without condition or limitation except as expressly provided in the Instructions and as provided under PFA 4. Block E shall be improved, used, operated, and maintained in accordance with the following:

A. Escrow. An escrow ("Escrow") has been be opened with a local escrow office of First American Title Insurance Company ("Escrow Holder"), and this Purchase Agreement and Escrow Instructions ("Instructions") and any additional instructions reasonably requested by Escrow Holder, shall be promptly executed and delivered by the parties. The close of Escrow shall occur within 10 days of the execution and delivery of the Instructions and Block E will then be conveyed by seller to Buyer in accordance with the terms hereof and the terms of the Project Financing Agreement.

B. Value. Prior to execution of Instructions, City requested and received a Valuation Report dated January 17, 2014, which valued Block E at the sum of $5,300,000. City will pay $5,300,000 for Block E and such sum will be delivered at close of Escrow. Said funds shall be used to create additional parking to the extent provided in Section C below.

C. Additional Parking. Developer agrees that all funds received per Section B above, will be deposited directly into the Private Improvement account and be released, upon authorizations from the IFC Agent and will be used to construct approximately 188+/- new underground parking spaces below surface areas of Blocks B and B-1, Market Street, and Andreas Street and 108+/- parking spaces below surface areas of Block F. Such new spaces are depicted on Exhibit B attached hereto and will be constructed approximately concurrently with streets to be constructed adjacent to and in the vicinity of Blocks B and F. Deposit of the funds per Section B above into the Private Escrow Improvement account and use of such funds as provided in this Section C will satisfy the Developer's obligation to deposit $2,000,000.00 into the Private Escrow Account as required under Section 2.8(6) of the PFA.

D. Use of Parking. The new parking spaces below Blocks B and B-1 as described above will be designated for use by occupants of development constructed within Blocks A, B, B-1, C, C-1, D, F, and G, and the guests and invitees of the occupants of such development, and the new parking spaces below Block F

will be designated for use by occupants of development constructed within Block A, B, B-1, C, C-1, D, F, and G and the guests and invitees of the occupants of such development.

E. Title. Prior to execution of the Instructions, City received a current Preliminary Title Report ("PTR") issued by First American Title Insurance Company ("Title Company") covering Block E, and copies of all recorded exceptions to title shown by the PTR. City has approved the PTR and all such exceptions, and will take title subject to such exceptions and standard title insurance policy exclusions and exceptions. At close of Escrow, City will receive a CLTA title insurance policy issued by the Title Company in the face amount of $5,300,000.

F. Amendment of Grant Deed for Parking. The Parties agree to amend the Grant Deed conveying the Parking Facilities as provided in the PFA to allow the City Council with the discretion to prohibit parking in the underground parking area in Block A and all parking on and within the city owned parking areas south of Block F between the hours of 3:00 am and 6:00 am as the City Council may designate by resolution.

G. Cooperation on Fees and Costs. Pursuant to Section 2 of the PFA, the Buyer agreed to waive all development mitigation fees associated with the Public Improvements, provide credits or waivers of development mitigation fees of the Buyer to the extent of prior improvements and facilities had been previously developed, and "cooperate with" Seller "in efforts to mitigate and reduce" development mitigation fees. Consistent with the general intent of these provisions, the Parties agree to the following allocation and sharing of fees and related costs associated with the development of the DFP area:

Fees Paid to Outside Agencies/Funds Established by Ordinance

	Seller:	City:
S.B. 1473 Fee	100%	0%
CVMSHCP Fee	100%	0%
SMIP Tax	100%	0%
School Fee	100%	0%
TUMF Fee	100%	0%
Drainage Fee	100%	0%
Plan Check (Building/Fire)	100%	0%
Sewer Main	100%*	0%
Sewer Connection Fee	100%*	0%
Buyer and Seller Litigation Expenses	50%	50%

Fees Paid to City for Entitlement Services

Building Permit Fees	50%	50%
Microfilm	50%	50%
Permit Issuance	50%	50%
Construction Tax	50%	50%
Dbl. Fee/RMW/Misc.	50%	50%
Construction Permit	50%	50%
Misc. Filing Fee	50%	50%
Planning Department Fees	50%	50%
Technology Fee	50%	50%
General Plan Maint. Fee	50%	50%
Sewer Inspection	50% *	50%
Public Arts Fee	50% **	50%
Park (Quimby) Fee	50%	50%

* Buyer and City will cooperate in forming community financing district to fund sewer obligations

** Developer can receive credit for public improvements approved as part of the project

In addition to specific and identifiable costs associated with change orders identified and approved in Resolution No. 23708, specific items were identified as work that would be required for which the Buyer would be obligated to pay, however, cost estimates for such items were unable to be identified at the time Resolution No. 23708 was adopted and the cost of each such item was described as "to be determined." Buyer and Seller agree that the total cost of such work and improvements as further described on Exhibit C-1 hereto will not exceed $1,296,000.00. Seller agrees to perform such work and Buyer agrees to pay for such work in an amount not to exceed $1,296,000.00. In the event the City Manager determines that it is reasonable or appropriate to offset all or a portion of any of Seller's fee obligations as provided in this Section G, any amounts offset authorized by City Manager shall be deemed a dollar for dollar credit and offset to any amounts owed to Seller for any work related to the Public Improvements as provided under Resolution No. 23708, including those items described therein as amounts to be determined but for which the total cost will not exceed $1,296,000.00.

H. To the extent provided herein, the provisions of Sections 3A, 3B, 3C, and 10 of the Fourth Amendment of the PFA are deemed amended and superseded by the provisions of these Instructions including Sections A, B, C, D, and E above. The Buyer and Seller ratify the provisions of Sections 3D, 3E, 3F, 3G, and 3H of PFA 4 and confirm that such provisions remain in full force and effect.

I. The provisions of this Purchase Agreement shall survive the close of escrow.

First American Title Company will act as Escrow Holder for the Parties pursuant to the applicable section of said Agreement subject to the following term and conditions.

General Provisions: Escrow Holder's duties and responsibilities in this escrow are subject to the General Provisions. To the extent that the Instructions are inconsistent with the General Provisions, the terms of the General Provisions shall control as to Escrow Holder's rights, duties, and responsibilities.

Additional Grant Deed Terms: The Grant Deed shall include the following language (in addition to usual and customary terms and terms appropriate and consistent with the Instructions): "This Grant Deed and the conveyance herein is subject to terms and provisions of Sections 3.D, 3.E, 3.F and 3.H contained in an agreement entitled "Fourth Amendment to PFA" between the City of Palm Springs, a California municipal corporation and charter city, and Palm Springs Promenade, LLC, a California limited liability company, which agreement is on file in the records of the City Clerk of the City of Palm Springs."

Clarification of Purchase Agreement Terms:
Sales Price: The sales price of the Real Property is **$5,300,000.00**
Opening Date: The opening of escrow date has been determined to be **November 6, 2014.**
Close of Escrow: The estimated settlement date is **December 31, 2014.**

Title Approval: Buyer acknowledges receipt of a copy of the Preliminary Report issued in connection with this escrow for the above-referenced property and containing the legal description of the property which is the subject of this escrow.

Buyer approves the contemplated policy form and acknowledges that the Policy of Title Insurance shall be subject to all exceptions shown on the Preliminary Report except:

1. Delinquent general and special taxes, assessments and/or bonds
2. Voluntary and/or involuntary liens created by Seller or prior owner not assumed by Buyer
3. Deed(s) of Trust not assumed by Buyer
4. The following items which are specifically disapproved by Buyer:_____
   Buyer initial(s): _____
   (Buyer: please list above the numbers of the specific exceptions on the preliminary report which are disapproved and initial.)

The policy shall also be subject to any deeds of trust and or other voluntary liens executed by Buyer as part of this escrow and general and special taxes and assessments which as of the date of close of escrow are a lien not yet due and payable.

Buyer further acknowledges that First American Title Company has not examined the public records for any involuntary liens that may be of record against the undersigned Buyer(s).

Buyer understands that, should there be any involuntary liens recorded against the Buyer at the time Buyer acquires title, these involuntary liens will become liens on the title to the property.

Estimated Settlement Statement: Upon Close of Escrow, Escrow Holder is instructed to disburse in accordance with the executed "Estimated Settlement Statement" without further instruction from the parties hereto.

Local Transfer Forms: Buyer and Seller acknowledge that local ordinances may require the completion and submittal of certain certificates or applications, or physical modifications such as sewer laterals, in connection with the transfer of ownership of the subject property, referred to herein as "Local Transfer Obligations." Buyer and Seller further acknowledge and agree that the completion or submittal of these Local Transfer Obligations shall be handled outside of escrow and are not the responsibility of Escrow Holder. Specifically, Escrow Holder is not responsible for: 1) identifying or advising regarding any such requirements, 2) furnishing, completing or submitting forms, or 3) paying or disbursing any funds in connection therewith. Buyer and Seller authorize and instruct Escrow Holder to close this escrow without inquiry or concern regarding the status of any Local Transfer Obligations.

In the event Escrow Holder agrees to receive any forms for forwarding to other parties or governmental agencies, Escrow Holder will be performing such actions as an accommodation only, and shall have no responsibility for the sufficiency or completeness of the documents, nor any responsibility for follow up or correction of any deficiencies. If Escrow Holder has transmitted any type of filing fee on behalf of the parties by its check and the check remains un-negotiated and becomes stale-dated or is returned to Escrow Holder by the agency, the parties instruct Escrow Holder to void its check and disburse the funds to the Buyer. Any related forms that are returned to Escrow Holder shall also be forwarded to the Buyer.

Satisfaction of Executory Terms: Pursuant to the Purchase Agreement, the consummation of the escrow is subject to satisfaction of certain executory terms and provisions which are not the responsibility of Escrow Holder. The Parties shall be solely responsible for determining such satisfaction and the Buyer and Seller execution of the Estimated Closing Statement, deposit of Grant Deed and funds for closing with Escrow Holder shall be deemed that such executory terms have been fully satisfied or are otherwise waived (as to Escrow Holder's duties) and Escrow Holder's receipt of the above described documents shall constitute a direction to Escrow Holder to close the Escrow. This provision is for the benefit of Escrow Holder only and not to be deemed a waiver or release of contractual obligations between the principals hereto.

Funds Held Fee: In the event that funds remain in escrow for any reason more than 90 days after the close of escrow, or if escrow has not closed 90 days after the estimated closing date set forth in the existing escrow instructions to Escrow Holder ("Dormancy Period"), Escrow Holder will make reasonable efforts to notify the parties regarding same. If funds remain in escrow beyond the Dormancy Period, a monthly "funds held fee" of $25.00 shall accrue for each month or fraction of a month thereafter that the funds, or any portion thereof, remain in escrow. Escrow Holder is instructed to deduct the monthly funds held fee directly from the funds held in escrow on a monthly or other periodic basis (i.e. quarterly, semi-annually, etc.). The parties agree to pay these sums to compensate Escrow Holder for administering, monitoring, accounting, reminders and other notifications and processing of the funds so held in accordance with this provision.

Document/Funds Delivery: After close of escrow, all documents, funds and statements are to be sent to the undersigned at the addresses provided to Escrow Holder.

SELLER:

Palm Springs Promenade, LLC, a California limited liability company

By: John Wessman, ~~Managing Partner~~ Manager

Forwarding Address: 555 S. Sunrise Way Suite 200 92264

Phone: 760-325-3050

BUYER:

City of Palm Springs, a California municipal corporation and charter city

By: Marcus Fuller, Acting City Manager

APPROVED AS TO FORM
City Attorney
Date 12-30-2014

Forwarding Address: City of Palm Springs 3200 East Tahquitz Canyon Way Palm Springs CA 92262

Phone: 760.322.8360

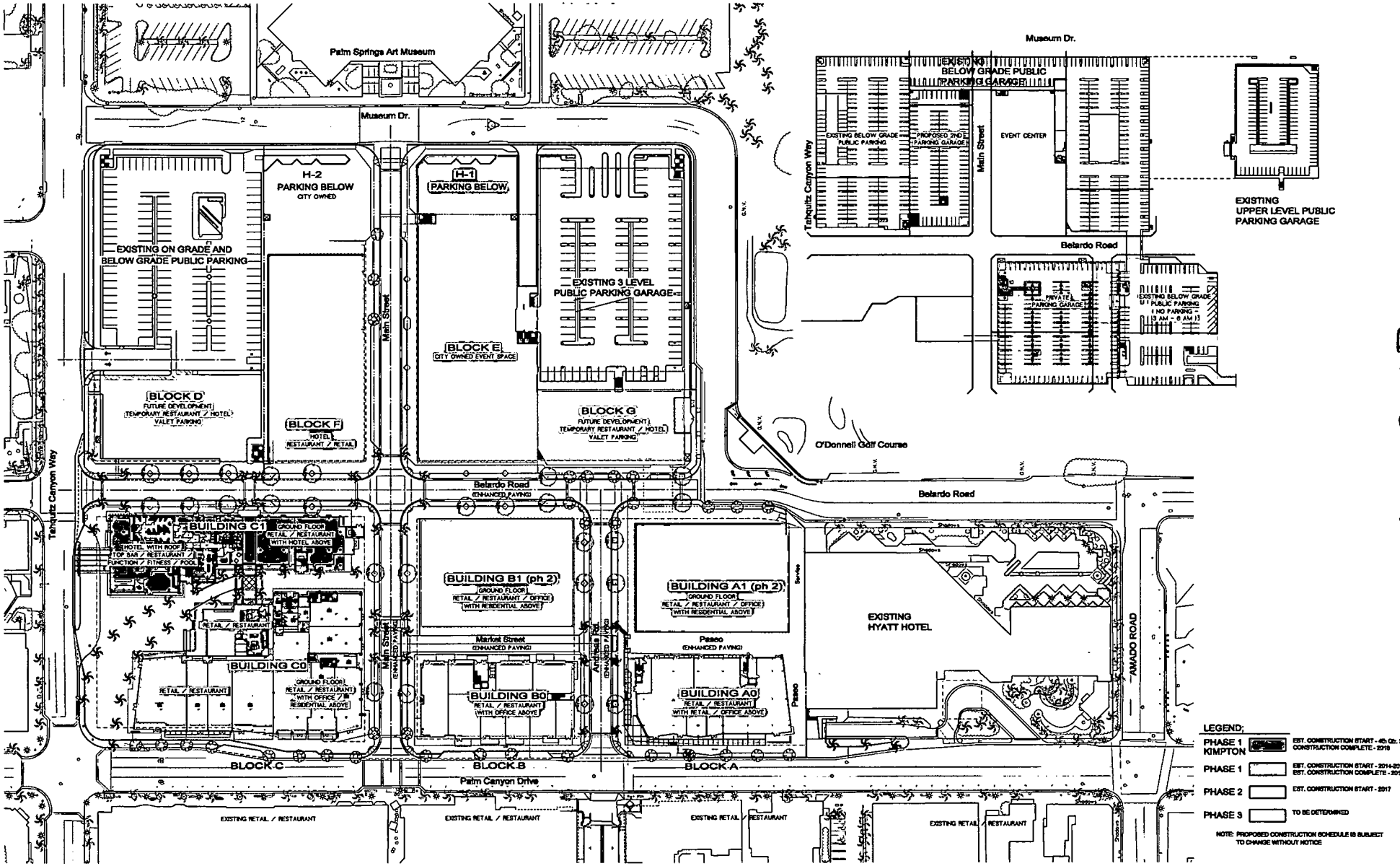

EXHIBIT A

DOWNTOWN PALM SPRINGS - PHASING - EXHIBIT "A"

WESSMAN DEVELOPMENT

Prepared by SANBORN A/E INC. - ARCHITECTURE-CIVIL ENGINEERING-SURVEYING - 760-423-0600

EXHIBIT A

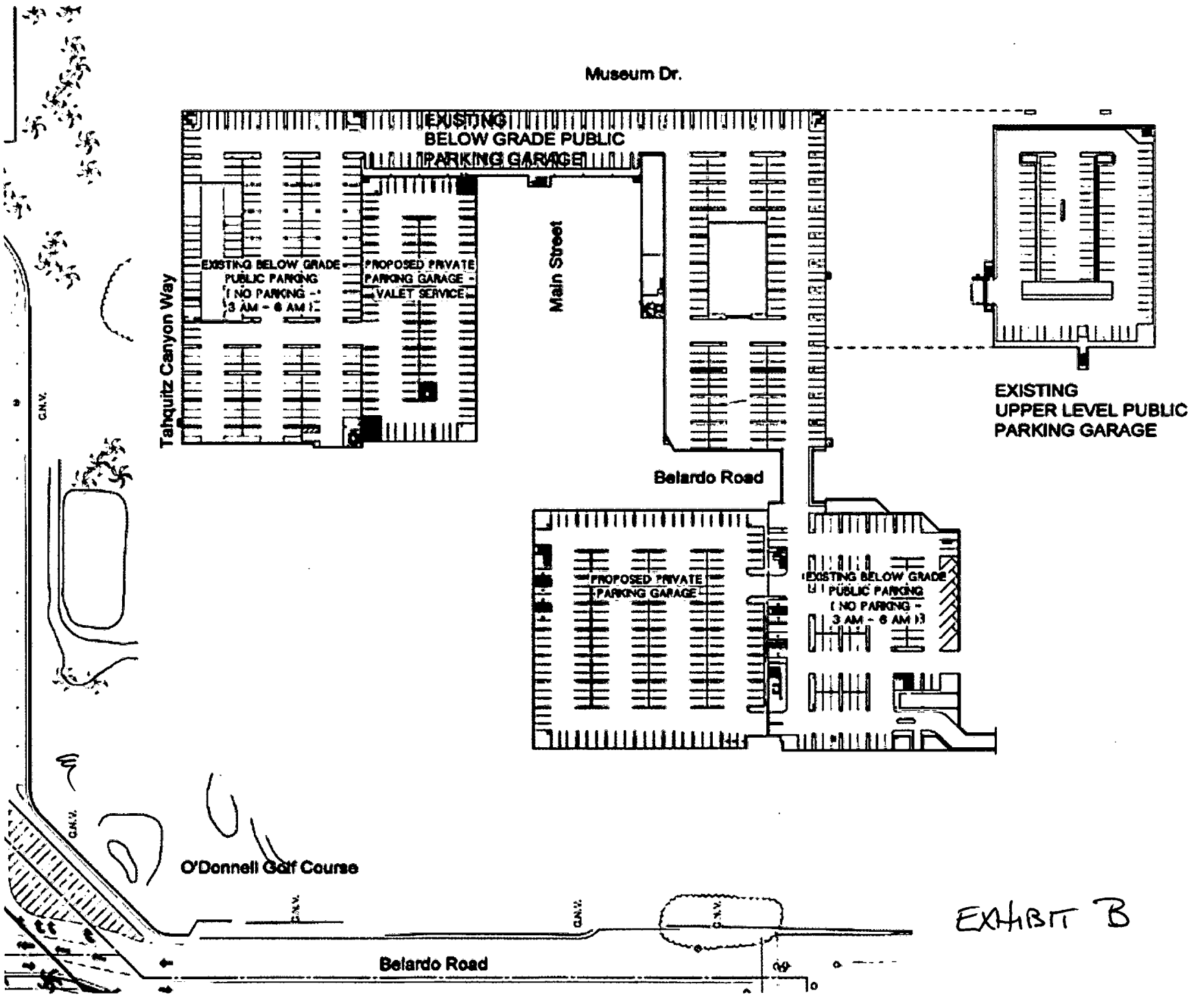

EXHIBIT B

EXHIBIT B

Prepared by Palm Springs Promenade, LLC

Anthony Monaco (909-533-0929), Octavio Fernandez (760-408-7036), Michael Braun 760-641-4046)

Down Town Palm Springs

PARKING STRUCTURE Change Order Log

Exhibit C1

Date 12/16/2014

PCO #	Description:	Proposal or Invoice	Estimated TBA Line Iter Costs
	Overall Parking Structure Systems Upgrade		
1.00	Mech. Upgrade Fans and VFD's	Propsoal by Desert Air	
1.01	Electrical Upgrades for Fans, VFD's	Propsoals by Alvarez	
1.02	Electrical retrofit LED Lighting (Underground Fixtures)	Budget	
1.02a	Underground Control Panels - North & South plus South Parking Garage Transformer	Proposal by Alvarez	$ 16,900.00
1.02b	Retrofit Exterior Parking Light Standards to LED	Proposal by Alvarez	$ 72,900.00
1.03	Exhaust Shafts (total of 2) -incl Excavation and Fill	Budget	
1.04	Shaft / Vent Covers (total of 7)	Budget	
1.05	Fire Protection Upgrades - Hyatt side - From copper to steel piple - Upgrade	Proposal by Desert Fire	
1.06	Underground Connection Upgrade FDC	Budget	
1.07	Relamping Credit -partially relamped	Budget	
	South Parking Garage Escalator / Stairs Demolition		
1.08	Remove Escalator and Demo Staircase	Proposal	
1.09	Esclator Service Credit - Mike Fontana to determine	Proposal	
1.10	*New upper traffic rated slab - concrete*	Invoice	
1.11	Lower Slab @ Escalator - concrete	Invoice	
1.12	New South Elevator "North" Exterior retaining wall	Invoice	
1.12a	New South Elevator Cabin and Equipment - 2 stops hydralic	Budget	$ 100,000.00
1.12b	South Elevator, Machine Room and Accessories	Budget	
1.12c	South Elevator Electrical Service - see 1.02a	Budget	
1.12d	Shade Structure South Elevator Entry Above Ground incl Architectu	Budget	
1.12e	South Elevator Flatwork, Concrete Wall,	Budget	$ 134,500.00
1.12f	Elevator Concrete Block Shaft Walls above finshed Floor	Budget	$ 36,416.00
1.12g	Elevator Electrical Lighting	Budget	$ 12,360.00
1.13	West Elevator Interiour wall	Invoice	$ 3,900.00
1.14	Water Proofing (A,B,E,I,J)	Proposal	
1.15	Excavation/ Backfill - North Wall / South Parking Garage related to Waterproofing	Proposal	
1.16	Taquitz Demo Parking Entry Structures (Exit and Entry)	Proposals	
	North Parking Garage		
1.17	Belardo Road Electrical Room Retaining Wall	Invoice	
1.18	Remove Low Clearance Planter Underground Parking & Install new Concrete Roof		$ 18,000.00
1.19	Structeral Engeneering Costs		$ 18,500.00
1.20	Contigency	Contingency	$ 40,000.00
	TOTAL	TOTAL	$ 453,476.00
15%	Overhead, Supervision & Equipment	Overhead, Supervision & Equipment	$ 68,021.40
	TOTAL	**TBA Line Items Total**	$ 521,497.40

Note: Any cost savings within any line item(s) may be used to cover cost overruns within any other line item(s).

Any changes not expressly referenced or described herein shall not be part of this contract

Prepared by Palm Springs Promenade, LLC

Anthony Monaco (909-533-0929), Octavio Fernandez (760-408-7036), Michael Braun 760-641-4046)

Down Town Palm Springs

Exhibit C 1

EVENT CENTER Change Order Log (per PFA Amendments Number 2 & 4)

Date 12/16/2014

PCO #	Description:	Proposal or Invoice	Estimated TBA Line Item Costs
	Event Center - Block E & (Pad H 1 / (H2) - Ampitheater In-Fill		
2.00	1st Demoliton of existing Stage / Amphittheater / Stairs / Deck	Proposal	
2.01	Footings, Forms, Rebar and Concrete, walls & stairs	Invoice	
2.02	Waterproofing (C,D,F,G,H, L, K)	Proposal / Invoice	
2.03	Back Fill & Excavation (H1 & H2)	Proposal	
2.03	Back Fill Inspections	Estimate	
2.04	Mechanical Shafts x 3 North & South	Invoice	
2.04a	Addional Exhaust Shaft		$ 10,800.00
2.05	2nd Demolition (existing landscape and retaining walls)	Invoice	
2.06	Emergency Lighting / Stairwell H1 only	Estimate	
2.07	Fire Protection Upgrades	Estimate	
2.08	Stairwell Painting	Estimate	
2.09	Stair Handrail	Estimate	
2.10	Demolition (remaining H 1& H 2 raised planter area Museum Way) Note Nothing figured for additional improvemetns for H1 & H2	Proposal	
2.11	Concrete Deck above undergrund parking tunnel		
2.12	3rd Demolition (Concrete Lid, Walls, Drive Aisle, Steel Shoring,Backfill)	Proposal	
2.13	New Exteriour & Interiour Retaining Wall - Basement Level @ Future Elevator	*Proposal*	
2.14	Plumbing Upgrade (Sump Pump)	Proposal	
2.15	Plumbing Sump Pump Electrical Installation	Budget	
2.16	Delivery Ramp, Future Elevator Flat Work,Elevator Pit, Handrail	Budget	$ 40,989.00
2.17	New Doors (Elevator landing basement floor) - incl demo 12 inch wall	Budget	$ 15,000.00
2.18	CMU - Retaining Wall - Basement Elevator level	Budget	$ 3,000.00
2.19	Concrete Stairs - Basement Level to First Floor	Budget	$ 3,600.00
2.20	Elevator Storage Room - Framing and Drywall, concrete block walls	Budget	$ 11,500.00
2.21	North Elevator	Budget	$ 175,000.00
2.22	North Elevator Shaft - Concrete Block	Budget	$ 36,180.00
2.23	Elevator Electrical	Budget	$ 3,900.00
2.24	H 1 -Stairwell additional Lightening - see deduct 2.06	Budget	$ 1,450.00
2.25	Additonal Staircase Handrails	Budget	$ 9,000.00
2.26	Roof Structure over Elevator Shaft		$ 10,000.00
2.27	CONTIGENCY		$ 40,000.00
	TOTAL	Total	$ 360,419.00
15%	Overhead, Supervision & Equipment	Overhead	$ 54,062.85
	TOTAL	**TBA Line Items Total**	$ 414,481.85

Note: Any cost savings within any line item(s) may be used to cover cost overruns

Any changes not expressly referenced or described herein shall not be part of this contract

Prepared by Palm Springs Promenade, LLC		**EXHIBIT C 1**	
Anthony Monaca (909-533-0929), Octavio Fernandez (760-408-7036), Michael Braun 760-641-4046)			
Down Town Palm Springs			
STREET IMPROVEMENTS Change Order Log			
Date	**12/16/2014**		
PCO #	**Description:**	**Est. Cost**	**Approved by City**
	Palm Canyon Street Improvements - Tahquitz - Hyatt		
3.00	**DEMO WORK**		
3.01	Demo 8 inch Curb	$ 13,050.00	
3.02	Demo AC Pavement	$ 9,465.00	
3.03	Demo Concrete Ribbon	$ 230.00	
3.04	Demo Pavers	$ 1,932.00	
3.05	Demo Catch Basin	$ 5,000.00	
3.06	Remove Street Lights (by city - completed)		
3.07	Demo SCE Vault Palm Canyon	$ 5,000.00	
3.08	Improvements - Move New Curb and Gutter 8 Feet East	$ 9,824.00	
3.09	Street Extension of Main & Andreas	$ 4,032.00	
3.10	Curb Extension Main & Andreas	$ 403.00	
3.11	3 inch AC over 6 inch base	$ 3,656.00	
3.12	Reinstall Pavers	$ 294.00	
3.13	Install new catch basin	$ 28,000.00	
3.14	New Pavers behind Curb	$ 53,952.00	
3.15	All Electrical to replace existing electrical	$ 57,600.00	
3.16	Relocate existing 12 inch DWA water line	$ 5,500.00	
3.17	Install new SCE Transformer and meter Pedesital as required incl SCE Fees	$ 25,000.00	
3.18	Relocate all existing Palm Trees 8 feet east	$ 25,300.00	
3.19	New Landscape Irrigation	$ 12,500.00	
3.20	Plant Material	$ 25,000.00	
3.21	Civil Engeering	$ 12,000.00	
	Contigency	$ 15,000.00	
	TOTAL	$ 312,738.00	$ -
15%	Overhead, Supervision & Equipment	$ 46,910.70	
	TOTAL	$ 359,648.70	

NOTE	North Palm Canyon Improvements Expenses are the result of recommendation of the Landscape Sub Committee to move Palm Canyo
	8 feet east to enhance the pedestarian experience creating rest areas and larger landscape planters along Palm Canyon
	Cost Line Items include expenses related to moving, replacing permanent or temporary Construction Fences
	Any cost savings within any line item(s) may be used to cover cost overruns within any other line item(s).
	Any changes not expressly referenced or described herein are not part of this contract