



CITY COUNCIL STAFF REPORT

DATE: July 20, 2011 CONSENT AGENDA

SUBJECT: Contract Award- Sperry Van Ness, Commercial Broker Services

FROM: David H. Ready, City Manager

BY: DEPARTMENT OF AVIATION

SUMMARY

This action will award a professional services contract for commercial real estate brokerage services to Sperry Van Ness for two (2) available vacant facilities on the Palm Springs International Airport property.

RECOMMENDATION:

1. Award Professional Services Contract to Sperry Van Ness for commercial real estate broker services of airport properties.
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

The Palm Springs Unified School District has been a longstanding tenant leasing property at the Palm Springs International Airport. PSUSD announced that they are constructing a modern new facility and will be vacating the airport sometime after the end of this calendar year. The approximate four (4) acre facility they currently occupy on airport is located south of East Alejo Road. There are several different structures scattered over this parcel that vary in size, construction and use, including a main office building, refrigerated warehouse, and several different specialty buildings, some of which are permanent and others portable. The PSUSD intends to vacate from all of the airport facilities and remove equipment leaving the buildings in tact and good condition. This transition will occur only after their new facility opens and they make the move.

This particular airport property has airside access, however the paved vehicle parking areas are not capable supporting aircraft without some considerable and costly modification. None of the structures are capable of hangaring an aircraft. Because of the overall limited aeronautical use of this property, it is evident that securing a new

tenant will have to include consideration of non-aviation industries that are functionally compatible with the environs of the airport.

There is one (1) other vacant facility located just east of the School District parcel and it is available now for occupancy. This warehouse and office structure was recently vacated on short notice by longstanding tenant SSC Racing which specialized in motorized go-carts and accessories. The property is also adjacent to the aeronautical areas, but the pavements and facility are not conducive for aircraft usage and, subsequently, has to be marketed to some non-aviation tenants that are compatible with airport environs.

In anticipation that it will require an assertive and expansive brokerage effort to identify potential new airport tenants, staff recommended and the Airport Commission supported the strategy of engaging a professional commercial realtor for the properties.

The Procurement Division worked closely with the Airport to prepare the request for Statements of Qualifications (SOQ) 04-11. The SOQ was issued on October 6, 2010 and was advertised in The Desert Sun, posted to our website and notices were sent to ten (10) firms. The City received one (1) response to the SOQ on 10/27/10 and an evaluation committee consisting members of Airport management and the Airport Commission unanimously agreed on 11/4/10 that the submittal from Sperry Van Ness met the qualifications and needs of the airport for this project and negotiated the attached agreement.

The firm being recommended for the award of these real estate brokerage services is a professionally established and recognized firm specializing in commercial properties. The agent who will be managing the sales effort is a long time Palm Springs resident who has considerable knowledge and experience with the Valley's commercial property market. This individual is also very familiar with the long history of the airport and this combination of experience and institutional knowledge should result into a solid effort to locate a tenant during very challenging economic times.

The contract is attached and it stipulates that this agent will be compensated by a percentage (2-6% range) range depending on the length of the term and the gross lease rental amount. The compensation will be paid only after a tenant contract has been accepted by staff and approved by City Council. If no tenant prospects are found, there will not be any commission paid. The City has the right to terminate this professional services agreement with its standard thirty (30) day notice. The term of the agreement is for a base of six (6) months up to two (6) years at the discretion of the City.

FISCAL IMPACT:

The airport fund is required to obtain a professional appraisal of any of its property to establish fair market value. Therefore, there will be the cost of obtaining two (2) appraisals, one for the PSUSD property, and the other for the SSC vacated facility. The cost of marketing the properties is the responsibility of the professional broker and these costs are not reimbursable. Any commission payout will have to be paid in full by the airport fund and will be calculated as a percentage of the total gross rental to the airport. Because the commission payment will have to be made in full shortly after the promulgation of the tenant rental agreement, and none of the rent will have been collected by then, the airport fund will have to essentially float this expense and gradually retire it over the course of the tenant rental agreement. Because appraisals have not yet been conducted, it is impossible to identify what type of rental incomes and subsequent commission payments are involved.



Thomas Nolan,
Executive Director, Airport



for David H. Ready, City Manager Asst City Mgr

Attachment: Professional Services Agreement/Sperry Van Ness

**PROFESSIONAL SERVICES AGREEMENT
SPERRY VAN NESS**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into, and effective on _____, 201__, between the CITY OF PALM SPRINGS, a California charter city and municipal corporation, ("City") and SPERRY VAN NESS, a Delaware corporation with an office located at 2066 Tamarisk Road, Palm Springs, California. ("Consultant"). City and Consultant are individually referred to as "Party" and are collectively referred to as the "Parties".

RECITALS

A. City has determined that there is a need for provision of professional commercial real estate brokerage/leasing agent services for the promotion and leasing of a vacant facility located within the Palm Springs International Airport (PSP) boundary. (Hereinafter, the project ("Project")).

B. Consultant has submitted to City a proposal to provide professional commercial real estate brokerage/leasing agent services to City for the Project under the terms of this Agreement.

C. Consultant is qualified by virtue of its experience, training, education, reputation, and expertise to provide these services and has agreed to provide such services as provided in this Agreement.

D. City desires to retain Consultant to provide such professional services.

In consideration of these promises and mutual obligations, covenants, and conditions, the Parties agree as follows:

AGREEMENT

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, Consultant agrees to perform the professional services set forth in the Scope of Services described in Exhibit "A" (the "Services" or "Work") , which is attached and incorporated by reference. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and professional services and that Consultant is experienced in performing the Work and Services contemplated and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the Work and Services required in this Agreement. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized as high quality among well-qualified and experienced professionals performing similar work under similar circumstances.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; (2) the Scope of Services; (3) the City's Request for Proposals; and, (4) the Consultant's signed, original proposal submitted to the City ("Consultant's Proposal"), (collectively referred to as the "Contract Documents"). The City's Request for Proposals and the Consultant's Proposal, which are both attached as Exhibits "B" and "C", respectively, are incorporated by reference and are made a part of this Agreement. The Scope of Services shall include the Consultant's Proposal. All provisions of the Scope of Services, the City's Request for Proposals and the Consultant's Proposal shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the provisions of the Scope of Services (Exhibit "A"); (2nd) the provisions of the City's Request for Proposal (Exhibit "B"); (3rd) the terms of this Agreement; and, (4th) the provisions of the Consultant's Proposal (Exhibit "C").

1.3 Compliance with Law. Consultant warrants that all Services rendered shall be performed in accordance with all applicable federal, state, and local laws, statutes, ordinances lawful orders, rules, and regulations.

1.4 Licenses, Permits, Fees, and Assessments. Consultant represents and warrants to City that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, qualification, or approval that is legally required for Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement. Consultant shall indemnify, defend, and hold harmless City against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against City to the fullest extent permitted by law.

1.5 Familiarity with Work. By executing this Agreement, Consultant warrants that Consultant (a) has thoroughly investigated and considered the Scope of Services to be performed, (b) has carefully considered how the Services should be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

1.6 Care of Work. Consultant shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components to prevent losses or damages. Consultant shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties. Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.8 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Consultant, incorporating any adjustments in the Schedule of Compensation and/or the time to perform this Agreement. Any adjustments must also be approved in writing by the Consultant. Any increase in the time to perform of up to thirty (30) days, may be approved by the City Manager, or his designee, as may be needed to perform any extra work. Any increases in the Schedule of Compensation and/or the time to perform this Agreement beyond thirty (30) days, occurring either separately or cumulatively, must be approved by the Palm Springs City Council. It is expressly understood by Consultant that the provisions of this section shall not apply to the services specifically set forth or reasonably contemplated within the Scope of Services.

2. COMPENSATION

2.1 Maximum Contract Amount. For the Services rendered under this Agreement, Consultant shall be compensated by City in accordance with the Schedule of Compensation, which is attached as Exhibit "D" and incorporated in this Agreement by reference. It is expressly understood by the Parties that compensation under this Agreement shall solely be via commission as provided in Exhibit "D". That commission shall be a negotiated lump sum payable after the lease agreement with the tenant(s) is executed and shall be calculated as a percentage of the gross lease rentals to the City. Should the Consultant be unsuccessful in obtaining a tenant(s) by the end of the term of this Agreement, the Parties agree that no commission shall be paid and the Consultant shall not be entitled to any compensation. However, if after the expiration of the term of this Agreement, one or more of the documented prospects does result in the lease of property, the Consultant may, at the City's sole and absolute discretion, be entitled to a commission for a reasonable period of time. The Consultant shall not be entitled to compensation for expenditures for reproduction costs, telephone expenses, transportation expenses or other similar expenses. Further, any commission paid to Consultant shall include the attendance of Consultant at all Project meetings reasonably deemed necessary by the City. Consultant shall not be entitled to any compensation beyond the commission for attending these meetings whether or not

Consultant is successful in obtaining a tenant. Consultant accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Consultant anticipates, that Consultant shall not be entitled to additional compensation, and that the provisions of Section 1.8 shall not be applicable to the services identified in the Scope of Services. The maximum amount of city's payment obligation under this section is the amount calculated pursuant to Exhibit "D".

2.2. Method of Payment. The method of payment shall be as specified in Exhibit "D".

2.3 Changes in Scope. In the event any change or changes in the Scope of Services is requested by City, Parties shall execute a written amendment to this Agreement, specifying all proposed amendments, including, but not limited to, any additional compensation or time. An amendment may be entered into:

A. To provide for revisions or modifications to documents, work product, or work, when required by the enactment or revision of any subsequent law; or

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Consultant's profession.

3. SCHEDULE OF PERFORMANCE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon Schedule of Performance detailed below.

3.2 Schedule of Performance. Consultant shall commence the Services under this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established below. When requested by Consultant, extensions to the time period(s) specified in Section 3.4 may be approved in writing by the Contract Officer, but such extensions shall not exceed two (2) years cumulatively; however, the City shall not be obligated to grant such an extension.

3.3 Force Majeure. The time period(s) specified herein for performance of the Services rendered under this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted) if Consultant, within ten (10) days of the commencement of such delay, notifies the Contract Officer in writing of the causes of the delay. Unforeseeable causes include, but are not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period

of the enforced delay when and if in the judgment of the City Manager such delay is justified. The City Manager's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement under this section.

3.4 Term. Unless earlier terminated under this Agreement, this Agreement shall commence upon the effective date of this Agreement and continue in full force and effect until completion of the Services or six (6) months, whichever come first. The Agreement may be extended for maximum of three (3) three (3) month terms at the discretion of the City. However, the total term shall not exceed two (2) years from the commencement date, except as otherwise described in Section 3.3 above. Any extension must be through mutual written agreement of the Parties.

3.5 Termination Prior to Expiration of Term. City may terminate this Agreement for its convenience at any time, without cause, in whole or in part, upon giving Consultant thirty (30) days written notice. Where termination is due to the fault of Consultant and constitutes an immediate danger to health, safety, and general welfare, the period of notice shall be such shorter time as may be determined by the City. Upon such notice, City shall have no obligation to pay Consultant for Services performed through the date of termination except as provide in the Exhibit "D". Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless stated otherwise in the notice or by written authorization of the Contract Officer. After such notice, Consultant shall have no further claims against the City under this Agreement. Consultant may terminate this Agreement, with or without cause, upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

4. COORDINATION OF WORK

4.1 Representative of Consultant. The following principal of Consultant is designated as being the principal and representative of Consultant authorized to act in its behalf and make all decisions with respect to the Services to be performed under this Agreement: John Stiles, Vice President, Broker. It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

4.2 Contract Officer. The Contract Officer shall be the City Manager or his/her designee ("Contract Officer"). Consultant shall be responsible for keeping the Contract Officer fully informed of the progress of the performance of the services. Consultant shall refer any decisions that must be made by City to the Contract Officer.

Unless otherwise specified, any approval of City shall mean the approval of the Contract Officer.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign full or partial performance of this Agreement, nor any monies due, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not contract with any other entity to perform the Services required under this Agreement without the prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest in this Agreement may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted in this Agreement shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant from any liability under this Agreement without the express written consent of City.

4.4 Independent Contractor. The legal relationship between the Parties is that of an independent contractor, and nothing shall be deemed to make Consultant a City employee.

A. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act or represent themselves as City officers or employees. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees, or agents shall not maintain an office or any other type of fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not have any authority to bind City in any manner. This includes the power to incur any debt, obligation, or liability against City.

C. No City benefits shall be available to Consultant, its officers, employees, or agents in connection with any performance under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing Services. If for any reason any court or governmental agency determines that the City has financial obligations, other than under Section 2 and Subsection 1.8 in this Agreement, of any nature relating to salary, taxes, or benefits of Consultant's officers, employees, servants, representatives, subcontractors, or agents, Consultant shall indemnify City for all such financial obligations.

5. INSURANCE

5.1 Types of Insurance. Consultant shall procure and maintain, at its sole cost and expense, the insurance described below. The insurance shall be for the duration of this Agreement and includes any extensions, unless otherwise specified in this Agreement. The insurance shall be procured in a form and content satisfactory to City. The insurance shall apply against claims which may arise from the Consultant's performance of Work under this Agreement, including Consultant's agents, representatives, or employees. In the event the City Manager determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager or his designee. Consultant shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified in this Agreement. Except as otherwise authorized below for professional liability (errors and omissions) insurance, all insurance provided under this Agreement shall be on an occurrence basis. The minimum amount of insurance required shall be as follows:

A. **Professional Liability Insurance.** Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, standard industry form professional liability insurance coverage in an amount of not less than one million dollars (\$1,000,000.00) per occurrence and two-million dollars (\$2,000,000.00) annual aggregate, in accordance with the provisions of this section.

(1) Consultant shall either: (a) certify in writing to the City that Consultant is unaware of any professional liability claims made against Consultant and is unaware of any facts which may lead to such a claim against Consultant; or (b) if Consultant does not provide the certification under (a), Consultant shall procure from the professional liability insurer an endorsement providing that the required limits of the policy shall apply separately to claims arising from errors and omissions in the rendition of services under this Agreement.

(2) If the policy of insurance is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City Manager.

(3) In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Services under the terms of this Agreement.

B. Workers' Compensation Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, workers' compensation insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies. The requirement to obtain and maintain workers' compensation insurance shall be waived for the Consultant if Consultant is classified as a sole owner/operator and has no employees. However, if at any time during the term of this Agreement Consultant ceases to be a sole owner/operator or retains any employees, Consultant shall secure the appropriate worker's compensation insurance. This provision shall apply equally to all subcontractors.

C. Commercial General Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of commercial general liability insurance written on a per occurrence basis with a combined single limit of at least one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage including coverages for contractual liability, personal injury, independent contractors, broad form property damage, products and completed operations.

D. Business Automobile Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of business automobile liability insurance written on a per occurrence basis with a single limit liability in the amount of one million dollars (\$1,000,000.00) bodily injury and property damage. The policy shall include coverage for owned, non-owned, leased, and hired cars.

E. Employer Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of employer liability insurance written on a per occurrence basis with a policy limit of at least one million dollars (\$1,000,000.00) for bodily injury or disease.

5.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager or his/her designee prior to commencing any work or services under this Agreement. Consultant guarantees payment of all deductibles and self-insured retentions. City reserves the right to reject deductibles or self-insured retentions in excess of \$10,000, and the City Manager or his/her designee may require evidence of pending claims and claims history as well as evidence of Consultant's ability to pay claims for all deductible amounts and self-insured retentions proposed in excess of \$10,000.

5.3 Other Insurance Requirements. The following provisions shall apply to the insurance policies required of Consultant under this Agreement:

- 5.3.1 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City and its officers, council members, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City and its officers, council members, officials, employees, agents, and volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- 5.3.2 Any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to City and its officers, council members, officials, employees, agents, and volunteers.
- 5.3.3 All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

- 5.3.4 No required insurance coverages may include any limiting endorsement which substantially impairs the coverages set forth in this Agreement (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City Manager and approved in writing.
- 5.3.5 Consultant agrees to require its insurer to modify insurance endorsements to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the endorsements. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant's obligation to ensure timely compliance with all insurance submittal requirements as provided in this Agreement.
- 5.3.6 Consultant agrees to ensure that subcontractors, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.
- 5.3.7 Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on the City nor does it waive any rights in this or any other regard.
- 5.3.8 Consultant shall provide proof that policies of insurance required in this Agreement, expiring during the term of this Agreement, have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. Endorsements as required in this Agreement applicable to the renewing or new coverage shall be provided to City no later than ten (10) days prior to expiration of the lapsing coverage.
- 5.3.9 Requirements of specific insurance coverage features or limits contained in this section are not intended as limitations on coverage, limits, or other requirements, or as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it

pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

5.3.10 The requirements in this section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impair the provisions of this section.

5.3.11 Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the Work performed under this Agreement and for any other claim or loss which may reduce the insurance available to pay claims arising out of this Agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City, or to reduce or dilute insurance available for payment of potential claims.

5.3.12 Consultant agrees that the provisions of this section shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages resulting from the Consultant's activities or the activities of any person or person for which the Consultant is otherwise responsible.

5.4 Sufficiency of Insurers. Insurance required in this Agreement shall be provided by authorized insurers in good standing with the State of California. Coverage shall be provided by insurers admitted in the State of California with an A.M. Best's Key Rating of B++, Class VII, or better, unless such requirements are waived in writing by the City Manager or his designee due to unique circumstances.

5.5 Verification of Coverage. Consultant shall furnish City with both certificates of insurance and endorsements, including additional insured endorsements, affecting all of the coverages required by this Agreement. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All proof of insurance is to be received and approved by the City before work commences. City reserves the right to require Consultant's insurers to provide complete, certified copies of all required insurance policies at any time. Additional insured endorsements are not required for Professional Liability and Workers' Compensation policies.

Verification of Insurance coverage may be provided by: (1) an approved General and/or Auto Liability Endorsement Form for the City of Palm Springs or (2) an acceptable Certificate of Liability Insurance Coverage with an approved Additional Insured Endorsement with the following endorsements stated on the certificate:

1. *"The City of Palm Springs, its officials, employees, and agents are named as an additional insured..." ("as respects City of Palm Springs Contract No. ___" or "for any and all work performed with the City" may be included in this statement).*

2. "This insurance is primary and non-contributory over any insurance or self-insurance the City may have..." ("as respects City of Palm Springs Contract No. ____" or "for any and all work performed with the City" may be included in this statement).

3. "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate Holder named." Language such as, "endeavor to" mail and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representative" is not acceptable and must be crossed out.

4. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City, its elected officials, officers, employees, agents, and volunteers.

In addition to the endorsements listed above, the City of Palm Springs shall be named the certificate holder on the policies. All certificates of insurance and endorsements are to be received and approved by the City before work commences. All certificates of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Failure to obtain the required documents prior to the commencement of work shall not waive the Consultant's obligation to provide them.

6. INDEMNIFICATION

6.1 Indemnification and Reimbursement. To the fullest extent permitted by law, Consultant shall defend (at Consultant's sole cost and expense), indemnify, protect, and hold harmless City, its elected officials, officers, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (Consultant's employees included), for damage to property, including property owned by City, from any violation of any federal, state, or local law or ordinance, and from errors and omissions committed by Consultant, its officers, employees, representatives, and agents, that arise out of or relate to Consultant's performance under this Agreement. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the City, its elected officials, officers, employees, agents, and volunteers. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability under this Agreement. Consultant's indemnification obligation shall survive the expiration or earlier termination of this Agreement until all actions against the Indemnified Parties for such matters indemnified are fully and finally barred by the applicable statute of limitations or, if an action is timely filed, until such action is final. This provision is intended for the benefit of third party Indemnified Parties not otherwise a party to this Agreement.

7. REPORTS AND RECORDS

7.1 Accounting Records. Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Consultant shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement, or as the Contract Officer shall require.

7.3 Ownership of Documents. All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subcontractors, and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials. Any use

of such completed documents for other projects and/or use of incomplete documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and the City shall indemnify the Consultant for all resulting damages. Consultant may retain copies of such documents for their own use. Consultant shall have an unrestricted right to use the concepts embodied in this Agreement. Consultant shall ensure that all its subcontractors shall provide for assignment to City of any documents or materials prepared by them. In the event Consultant fails to secure such assignment, Consultant shall indemnify City for all resulting damages.

7.4 Release of Documents. All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization.

7.5 Audit and Inspection of Records. After receipt of reasonable notice and during the regular business hours of City, Consultant shall provide City, or other agents of City, such access to Consultant's books, records, payroll documents, and facilities as City deems necessary to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Consultant's performance under this Agreement. Consultant shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such County, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or

paragraphs.

8.3 Default of Consultant. Consultant's failure to comply with any provision of this Agreement shall constitute a default.

A. If the City Manager, or his designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing shall limit City's right to terminate this Agreement without cause under Section 3.5.

B. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.3A, take over the work and prosecute the same to completion by contract or otherwise. The Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages). The City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant's liability for completion of the Services as provided in this Agreement.

8.4 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions.

8.5 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.6 Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct, remedy or recover damages

for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.7 Attorney Fees. In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses. These include but are not limited to reasonable attorney fees, expert consultant fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any direct or indirect financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects their financial interest or the financial interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested in violation of any state statute or regulation. Consultant warrants that Consultant has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

9.3 Covenant Against Discrimination. In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10. MISCELLANEOUS PROVISIONS

10.1 Patent and Copyright Infringement. To the fullest extent permissible under law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise:

A. It is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the normal use or sale arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and Consultant shall pay all costs and damages finally awarded in any such suit or claim, provided that Consultant is promptly notified in writing of the suit or claim and given authority, information and assistance at Consultant's expense for the defense of same, and provided such suit or claim arises out of, pertains to, or is related to the negligence, recklessness or willful misconduct of Consultant. However, Consultant will not indemnify City if the suit or claim results from: (1) City's alteration of a deliverable, such that City's alteration of such deliverable created the infringement upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by Consultant when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant's expense. Consultant shall not be obligated to indemnify City under any settlement that is made without Consultant's consent, which shall not be unreasonably withheld. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

10.2 Notice. Any notice, demand, request, consent, approval, or communication that either party desires, or is required to give to the other party or any other person shall be in writing. All notices shall be personally delivered, sent by pre-paid First Class U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission. All notices shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice, request, demand, direction, or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, and instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

To City: City of Palm Springs
Attention: City Manager & City Clerk
3200 E. Tahquitz Canyon Way
Palm springs, California 92262
Telephone: (760) 323-8204
Facsimile: (760) 323-8332

To Consultant: John Stiles, Vice President, Broker
Sperry Van Ness
2066 Tamarisk Road
Palm Springs, California 92262
Telephone: (760) 323-4886
Facsimile: (760) 323-4886

10.3 Integrated Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter in this Agreement.

10.4 Amendment. No amendments or other modifications of this Agreement shall be binding unless through written agreement by all Parties.

10.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

10.6 Third Party Beneficiary. Except as may be expressly provided for in this Agreement, nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party to this Agreement.

10.7 Recitals. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth in this Agreement and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.8. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he or she is executing this Agreement is duly authorized and existing, (ii) he or she is duly authorized to execute and deliver this Agreement on

behalf of the Party for which he or she is signing, (iii) by so executing this Agreement, the Party for which he or she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he or she is signing is bound.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates stated below.


"CITY"
City of Palm Springs

Date: _____

By: _____
David H. Ready
City Manager

APPROVED AS TO FORM:

ATTEST

By: 
Douglas C. Holland,
City Attorney

By: _____
James Thompson,
City Clerk

APPROVED BY CITY COUNCIL:

Date: _____ Agreement No. _____

Corporations require two notarized signatures. One signature must be from Chairman of Board, President, or any Vice President. The second signature must be from the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

CONSULTANT NAME:

Check one Individual Partnership Corporation

Address

By _____
Signature (Notarized)

By _____
Signature (Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
 County of _____ }

On _____ before me, _____
Date Here Insert Name and Title of the Officer
 personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT "A"
SCOPE OF SERVICES

EXHIBIT "A"

SCOPE OF SERVICES

The objective of this Agreement is to obtain professional commercial real estate brokerage/leasing agent services for the marketing and leasing of a vacant facility located within the Palm Springs International Airport (PSP) boundary as more thoroughly defined in the Attachment "B" to the City's Notice of Inviting Statements of Qualifications (SOQ 04-11).

The scope of services and principal responsibilities shall include, but are not limited to, maximize commercial real estate lease opportunities on behalf of the Palm Springs International Airport for the specific property defined above by providing professional services related to the property transactions. The Consultant shall, consistent with industry practice and standards, provide services to facilitate the lease of the property with the emphasis on marketing the property and assessment of property lease opportunities, interpretation and assessment of current market trends. The Consultant shall prepare a market survey, property valuation estimate, lease and transfer timeline projections, conduct negotiations, qualify prospective tenants, facilitate transaction execution, and monitor and close the lease.

Consultant shall maintain constant and frequent contact with the Contract Officer and shall keep him/her apprised of the status of the services.

EXHIBIT "B"

CITY'S REQUEST FOR PROPOSALS

CITY OF PALM SPRINGS, CA

NOTICE INVITING STATEMENTS OF QUALIFICATIONS
For

COMMERCIAL REAL ESTATE BROKERAGE / LEASING AGENT SERVICES
(SOQ 04-11)

NOTICE IS HEREBY GIVEN that Statements of Qualifications (SOQ 04-11), for providing commercial real estate brokerage / leasing agent services for the promotion and leasing of a vacant facility located at Palm Springs International Airport in Palm Springs, CA will be received at the Office of Procurement & Contracting, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs, California, until **3:00 P.M. Local Time, WEDNESDAY, OCTOBER 27, 2010**. Proof of receipt before the deadline is a City of Palm Springs, Division of Procurement and Contracting time/date stamp. It is the responsibility of the Respondent to see that any submittal sent through the mail, or by any other delivery method, shall have sufficient time to be received by the Procurement Office prior to the proposal due date and time. Note that City Hall is open Monday thru Thursday and is closed every Friday and weekends. Late submittals will be returned unopened.

DESCRIPTION OF WORK: The work is comprised of providing professional commercial real estate brokerage / leasing agent services for the promotion and leasing of a vacant facility located within the Palm Springs International Airport (PSP) boundary.

OBTAINING SOQ DOCUMENTS AND REGISTRATION:

The SOQ document may be downloaded via the internet at the following direct page link <http://www.palmsprings-ca.gov/index.aspx?page=85> (or by visiting www.palmspringsca.gov and clicking on Government, then Departments, then Procurement and then open Bids and Proposals). Upon downloading the document it is **IMPERATIVE** that you contact Cheryl Martin, Procurement Specialist I, via email at Cheryl.Martin@palmspringsca.gov or by phone at (760) 322-8373 to **officially register for this specific project** with your company name, address, phone, fax, contact person and email address. Failure to officially register may result in not receiving addenda to the SOQ. Failure to acknowledge addenda to the SOQ may render your submittal as non-responsive.

SELECTION PROCESS AND AWARD OF CONTRACT: The City of Palm Springs is utilizing a qualifications based selection process to select a firm to provide the services described in this solicitation. A firm may be selected from the qualification statements based upon the criteria defined in the SOQ document, and if deemed necessary, a limited number of firms may be invited to attend an on-site interview and make a formal presentation. If undertaken, the format and date of the presentation will be established at the time of short listing. Multiple factors will be considered in the selection of the most qualified firm.

The successful respondent will enter into negotiations with the City for a professional services agreement for the scope of work.

All expenses associated with the preparation and submission of an SOQ submittal to the City shall be the sole financial responsibility of the Respondent.

Craig L. Gladders, C.P.M.
Procurement and Contracting Manager

October 6, 2010



CITY OF PALM SPRINGS, CA

STATEMENT OF QUALIFICATIONS #04-11

COMMERCIAL REAL ESTATE BROKERAGE / LEASING AGENT SERVICES

I. BACKGROUND INFORMATION AND GENERAL DESCRIPTION

Palm Springs International Airport (PSP) is owned and operated by the City of Palm Springs, yet serves the entire Coachella Valley region consisting of the cities of Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Indio, Coachella, and Desert Hot Springs plus unincorporated areas within the region.

The subject property for which the City is seeking professional commercial real estate leasing agent services is located within the airport boundary and is described more fully in Attachment "B". While Airport staff typically manages the marketing and leasing of all aviation-related airport properties, this particular property is well-suited for other commercial use applications. The minimum term sought for the lease of the property is two (2) years and may extend as long as twenty (20) years. Due to the layout of the facilities on the parcel and the many different independent structures on the site, it is conceivable that multiple tenants with varying terms could occupy the property.

II. PROJECT OBJECTIVE, SCOPE OF SERVICES TO BE PROVIDED, AND SCHEDULE

The objective of this solicitation is to select a firm to provide professional commercial real estate brokerage/leasing agent services for the marketing and leasing of a vacant facility located within the Palm Springs International Airport (PSP) boundary.

The scope of services and principal responsibilities shall include, but are not limited to, maximize commercial real estate lease opportunities on behalf of the Palm Springs International Airport for the specific property defined herein by providing professional brokerage services, and to provide accurate and detailed record keeping for all services related to the property transactions. The broker shall provide services to facilitate the lease of the property, with emphasis on marketing the property and assessment of property lease opportunities, interpretation and assessment of current market trends. The broker shall prepare a market survey, property valuation estimate, lease and transfer timeline projections, conduct negotiations, qualify prospective tenants, facilitate transaction execution and monitor and close the lease.

The professional services of the commercial broker shall terminate upon the successful execution of lease(s) or at the end of the contract period. The airport shall be solely responsible for the management of the lease. A contract for these professional services has not yet been developed at the time of the solicitation but will be formulated once the selection of the commercial broker and final negotiation of terms has been completed. The City of Palm Springs standard professional services contract, Attachment "C" included herein, will be used as the basis of an agreement and modified as necessary to include the specific negotiated terms with the successful firm.

Following are some of the terms that are expected to be used as a base line:

- Minimum term will be six months and continued in three month increments for up to two years, renewable at the discretion of the City.
- Because this is a facility lease and not a sale of property, the compensation to the Broker will be negotiated as a lump sum payable after the executed lease agreement with the tenant (s) and then calculated as a percentage of the gross lease rentals to the airport. Should the Broker be unsuccessful in finding a tenant by the end of the professional services agreement with the City of Palms Springs, there will be no fee. However, if after the expiration of the services contract one or more of the documented prospects does result in the lease of the property the Broker may be entitled to the fee for up to a reasonable and mutually agreeable negotiated period of time.

III. SOQ SCHEDULE

Notice for Statements of Qualifications posted and issued Wednesday, October 6, 2010
Deadline for receipt of Questions **3:00 P.M., Wednesday, October 20, 2010**
Deadline for receipt of Submittals..... **3:00 P.M., Wednesday, October 27, 2010**
Short List / Interviews (**if desired by City*) TBD
Contract awarded TBD

IV. SUBMITTAL REQUIREMENTS

This solicitation has been developed in the request for "Statement of Qualifications" format. Accordingly, firms should take note that the City will consider multiple factors in the selection process. **Financial terms are NOT sought at this time nor will they be accepted or evaluated as part of the ranking criteria, as they will be negotiated with the highest ranked firm.** The highest ranked firm will be asked to submit a cost/terms proposal at a later date which the City may use as a basis for negotiating a final contract with the firm.

Commercial brokerage firms responding to this SOQ shall have at minimum the following qualifications:

- A minimum of three (3) consecutive years of commercial real estate brokerage/leasing agent experience in the Southern California market.
- Must possess a current State of California real estate broker's license.
- Have at least one (1) representative and office in the Coachella Valley.
- Be fully capable throughout the term of the contract to advertise and promote the PSP Airport property on various well-known electronic and print listing sites which are used by commercial brokers and the general public including but not limited to www.Loopnet.com; [desertareacie.com](http://www.desertareacie.com); [caldesertrealtors.com](http://www.caldesertrealtors.com); [propertyline.com](http://www.propertyline.com); [commercialsourcesource.com](http://www.commercialsourcesource.com); [airea.com](http://www.airea.com)
- Be capable of continuously promoting the property with an emphasis on the California markets and secondary emphasis in the remainder of the United States.
- Possess the ability and energy to identify and implement other creative promotional strategies in addition to the usual methods.
- Ability to provide creative ideas in the utilization of the PSP Airport's existing website as it relates to promoting the property.
- Maintain a list of brokers throughout Southern California and communicate directly with them about the property.
- Participate in the Desert Area Commercial Information Exchange and attend all the meetings to share this airport property.
- Advertise in Desert Homes and Commercial Properties magazine in all of its additions throughout the term of the contract

The following criteria shall be observed:

- ❑ The submittal shall not exceed 20 pages (sheets of paper), double sided (8½" by 11"), with margins no smaller than 1", font no less than 10 point, and spacing no less than single spaced. Dividers, Attachment "A", and Addenda acknowledgments do NOT count toward the 20 page limit.
- ❑ **One (1) unbound original plus Five (5) bound copies for a total of Six (6) submittals are required.** Facsimile (fax), email or other electronically transmitted submittals will not be accepted.
- ❑ Responses to this request for Statements of Qualifications shall be organized into five (5) categories as follows:

1. Information on the Firm. In this section the respondent shall provide a cover letter of introduction, addressing the size and history of the firm, and the availability of the firm to perform the tasks and services requested. Please include full contact information (title, address, phone, fax, and email) for both the principal officer with authority to bind your company in a contractual agreement, as well as the lead agent that will be assigned this project. Include a copy of your firm's current, valid, State of California real estate license.

2. Key Personnel. Provide an organizational structure and brief resume for each of the key persons proposed to work on this project (including any individual licenses). Include here information on your Coachella Valley based representative and local Coachella Valley based office. Highlight specific qualifications of key personnel that would be of importance and relevant to this specific project.

3. Past Experience/References. The selected firm must have the requisite training and experience to provide the services as defined herein. In this section, the respondent should demonstrate a minimum of three (3) consecutive years of commercial real estate brokerage/leasing experience in the Southern California market. In addition, specific knowledge of the Coachella Valley market should also be included. Also, provide at least three (3) previous commercial projects completed within the last three (3) years to be used as references. The projects listed should be of similar size and scope and demonstrate specific experience with the proposed scope of services contained in this SOQ. Please highlight areas of special expertise and any unique qualifications. A contact name, title, organization, current phone number and email address shall be provided for each reference.

4. Understanding of Scope of Services/Approach. In this section, respondents are requested to demonstrate your understanding of and approach to the project. Respondents should demonstrate their ability to advertise and promote the property in both electronic and print formats (include the names of specific websites and publications) in primarily the specific Coachella Valley and greater Southern California markets, and secondarily the rest of the United States. Finally, respondents also should demonstrate their ability to identify and implement other creative promotional strategies in addition to the usual methods, including utilization of the Airport's website.

5. Local Preference. Pursuant to the City of Palm Springs Local Preference Ordinance 1756, in awarding contracts for services, including consultant services, preference to a Local Business shall be given whenever practicable and to the extent consistent with the law and interests of the public. The term "Local Business" is defined as a vendor, contractor, or consultant who has a valid physical business address located

within the Coachella Valley, at least six months prior to bid or proposal opening date, from which the vendor, contractor, or consultant operates or performs business on a day-to-day basis, and holds a valid business license by a jurisdiction located in the Coachella Valley. "Coachella Valley" is defined as the area between the Salton Sea on the south, the San Jacinto and Santa Rosa Mountains on the west, and the Little San Bernardino Mountains on the east and north. For the purposes of this definition, "Coachella Valley" includes the cities of Beaumont and Banning and the unincorporated areas between Banning and the City of Palm Springs. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address.

The contractor or consultant will also, to the extent legally possible, solicit applications for employment and proposals for subcontractors and subconsultants for work associated with the proposed contract from local residents and firms as opportunities occur and hire qualified local residents and firms whenever feasible.

The full local preference (5 points) will be awarded to a Local Business. Up to 2 points may be awarded to a non-local business that employs or retains local residents and firms for this project.

In order for a business to be eligible to claim the preference, the business **MUST request the preference in the solicitation response and provide a copy of its current business license (or of those it employs for this project) from a jurisdiction in the Coachella Valley. (see Attachment "A")**

- The prospective Broker shall designate, by name, the broker/agents to be assigned to this project. Substitution of the broker/agents will not be allowed without prior approval by the City of Palm Springs.
- All submittals must be received in the City of Palm Springs, Division of Procurement and Contracting office by **3:00 P.M., LOCAL TIME, WEDNESDAY, OCTOBER 27, 2010.** Proof of receipt before the deadline is a City of Palm Springs, Division of Procurement and Contracting time/date stamp. It is the responsibility of the Proposer to see that any submittal sent through the mail, or by any other method, shall have sufficient time to be received by the Procurement Office prior to the submittal due date and time. Late submittals will be returned to the Respondent unopened. Submittals shall be clearly marked and identified and must be submitted to:

City of Palm Springs
Division of Procurement and Contracting
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: Craig L. Gladders, C.P.M., Procurement & Contracting Manager

QUESTIONS: Respondents, their representatives, agents or anyone else acting on their behalf are specifically directed **NOT** to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this SOQ other than as directed below. **Contact with anyone other than as directed below WILL be cause for rejection of a submittal.**

ANY questions, technical or otherwise, pertaining to this request for Statements of Qualifications **must be submitted IN WRITING and directed ONLY to:**

Craig L. Gladders, C.P.M.
Procurement & Contracting Manager
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262
via FAX (760) 323-8238
or via EMAIL: Craig.Gladders@palmspringsca.gov

Interpretations or clarifications considered necessary in response to such questions will be resolved by the issuance of formal Addenda to the SOQ. **The deadline for all questions is 3:00 P.M., Local Time, WEDNESDAY, OCTOBER 20, 2010.** Questions received after this date and time may not be answered. Only questions that have been resolved by formal written Addenda via the Division of Procurement and Contracting will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

□ Each submittal must include the correct number of copies defined above in a **SEALED** envelope, clearly marked and identified and include the following items (as described more fully in "Section VI. Submittal Requirements, items 1 through 5":

- Information on the Firm
- Key Personnel
- Past Experience and References
- Understanding of Scope of Services/Approach
- Local Preference
- **Complete the "Signature Authorization and Addenda Acknowledgment" form attached hereto as Attachment "A". Attachment "A" must be included.** If applicable, your specific request for Local Preference and a copy of a valid business license from a jurisdiction in the Coachella Valley must also be included with Attachment "A".

Important Note: The selected firm will be required to enter into a contractual agreement, inclusive of insurance requirements, with the City of Palm Springs in accordance with the standard Contract Services Agreement – Attachment "C" hereto. Please note that the Exhibits in the sample contract are intentionally not complete and will be negotiated with the selected firm and will appear in the final Contract Services Agreement executed between the parties. Any exceptions to the language contained in the SOQ document, sample agreement, including the Insurance Requirements, **MUST** be included in the submittal and clearly defined. Exceptions to the City's standard boilerplate professional services agreement, including the insurance requirements, may be considered in the evaluation process.

Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award. If the highest ranked firm refuses or fails to execute the Agreement, or negotiations are not successful, the City may, at its sole discretion, enter negotiations with and award the Contract to the second highest ranked firm, and so on.

V. RESPONSIBILITY OF RESPONDENT

All respondents to this SOQ shall be responsible. If it is found that a respondent is irresponsible (e.g., has not paid taxes, is not a legal entity, submitted a response without an authorized signature, falsified any information in the submittal package, etc.), the submittal shall be rejected.

- Each submittal will be reviewed by an evaluation committee to determine if it meets the requirements. Failure to meet the requirements for the SOQ may be cause for rejection of the submittal.
- The evaluation committee may, at its sole option, ask for interviews or oral presentations by any respondent(s) participating in this process. Attendance at any such interview will be at the respondent's expense.
- A final selection of the consultant will be determined following review of all submittals and/or formal oral presentations. The evaluation committee will make a recommendation of the selected consultant for contract negotiations and upon successful negotiations, recommend the contract to be awarded by the City Council.
- The selected consultant will work closely with City staff throughout the duration of the project. A firm will be selected for final negotiation of a contract based upon the following factors, as more fully described in "Section VI. Submittal Requirements, items 1 through 5" (Total possible 100 points):
 - **Information on the Firm: (15 points)**
 - **Key Personnel: (15 points)**
 - **Past Experience/References: (25 points)**
 - **Understanding of Scope of Services/Approach: (40 points)**
 - **Local Preference: (5 points)**
- Award of Contract:** It is the City's intent to award a single contract to the firm that is most qualified to meet the requirements of the SOQ document. The City reserves the right to award a contract to multiple firms or a single firm or to make no award, whichever is in the best interest of the City. It is anticipated that award of the contract will occur at the next regularly scheduled City Council meeting after the evaluation committee has made its final selection of the consultant to be recommended for award and a contract has been satisfactorily negotiated for consideration. The decision of the City Council will be final.
- Public Record:** Proposer's attention is drawn to the fact that all submittal documents are subject to the California Code Section 6250 et seq., commonly known as the Public Records Act. Information contained in the proposals may be made public after the review process has been completed, negotiations have concluded and a recommendation for award has been officially agendized for City Council consideration, and/or following award of contract, if any, by the City Council.
- Cost related to submittal preparation:** The City will NOT be responsible for any costs incurred by any respondent in the preparation of their respective submittal.
- Business License:** The successful proposer will be required to be licensed in accordance with the City of Palm Springs Business License Ordinance, Municipal Code Chapter 3.40 through 3.96, entitled "Business Tax".
- Submittal informalities or defects:** The City of Palm Springs reserves the right to waive any informality or technical defect in a submittal and to accept or reject, in whole or in part, any or all submittals and to advertise for new submittals, as best serves the interests of the City.

Investigations: The City reserves the right to make such investigations as it deems necessary to determine the ability of the Respondent to perform the Work and the Respondent shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any submittal if the evidence provided by or investigation of such Respondent fails to satisfy the City that such Respondent is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

Signed Submittal and Exceptions: A signed submittal will be interpreted to mean that Respondent has hereby agreed to all the terms and conditions set forth in all of the sheets which make up this request for Statements of Qualifications, and any attached sample agreement. Exceptions to any of the language in either the SOQ documents or attached sample agreement must be included with the submittal and clearly defined. Exceptions to the City's SOQ document or standard boilerplate language, terms or conditions may be considered in the evaluation process.

ATTACHMENT "A"

SOQ 04-11

COMMERCIAL REAL ESTATE BROKERAGE / LEASING AGENT SERVICES

NOTE: THIS FORM MUST BE COMPLETED AND INCLUDED WITH YOUR SUBMITTAL

SIGNATURE AUTHORIZATION

NAME OF PROPOSER/FIRM:

- A. I hereby certify that I have the authority to offer this proposal to the City of Palm Springs for the above listed individual or company. I certify that I have the authority to bind myself/this company in a contract should I be successful in my proposal.

SIGNATURE

PRINT NAME

- B. The following information relates to the legal contractor listed above, whether an individual or a company. Place check marks as appropriate:

1. If successful, the contract language should refer to me/my company as:

An individual;
 A partnership, Partners' names: _____

A company;
 A corporation
 A Local Business (Licensed within the jurisdiction of the Coachella Valley).
Copy of current business license is required to be attached to this document.

2. My tax identification number is: _____

ADDENDA ACKNOWLEDGMENT:

Acknowledgment of Receipt of any Addenda issued by the City for this SOQ is required by including the acknowledgment with your submittal. Failure to acknowledge the Addenda issued may result in your submittal being deemed non-responsive.

In the space provided below, please acknowledge receipt of each Addenda:

Addendum(s) # _____ is/are hereby acknowledged.

ATTACHMENT "B"
PROPERTY PROSPECTUS

**GENERAL MAINTENANCE AND OPERATIONS FACILITY
PALM SPRINGS INTERNATIONAL AIRPORT**

FACILITY INVENTORY

1. Warehouse building	9,600 SF
2. Admin offices	640 SF
3. Shops & maint offices	6,000 SF
4. Employee lounge	640 SF
5. Service garage	3,500 SF
6. Storage building	2,100 SF
7. Storage shed	1,125 SF
8. Warehouse building	1,800 SF
9. Weld shop building	960 SF
10. Food service warehs	12,487 SF
11. Storage building	4,800 SF
12. Maintenance offices	1,920 SF
13. Maintenance offices	1,920 SF

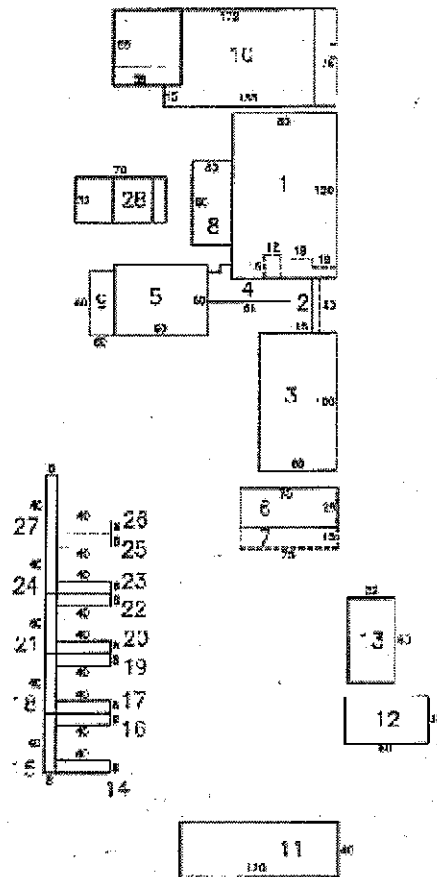
14. - 27 Storage containers 320 SF

28. Modular print/graphics 2,240 SF

Building Square Footage 49,732
Storage Containers 4,480

Total Square Footage 54,212

PHOTO 2: SITE DIAGRAM



Forming 1 - Warehouse Building

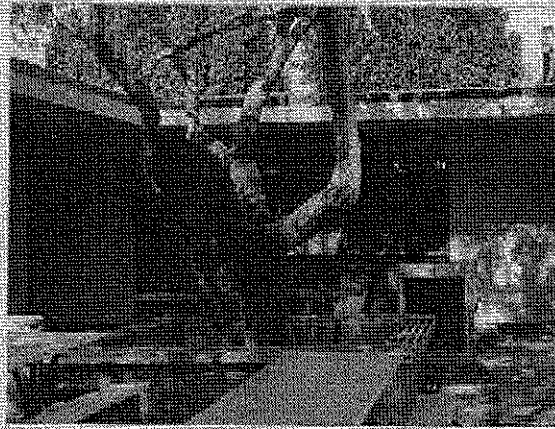
Year of Construction: 1961
 SNA: NA
 Area: 5,400
 Bays: 29
 Spans: 1
 Hardware: AA
 NB: No Fr. Clean J
 Condition: G
 S.C. Code: B
 Z.C. Code: 0220

Construction Code: C
 External Walls: TC
 Roof Construction: ST, WB
 Roof Structure: SI
 Internal Walls: DW, O, PW
 Flooring: FI, O
 Floor: CO
 Windows: CCB
 Partitions: PA
 Mechanical: BP
 Fire Code: EM, R



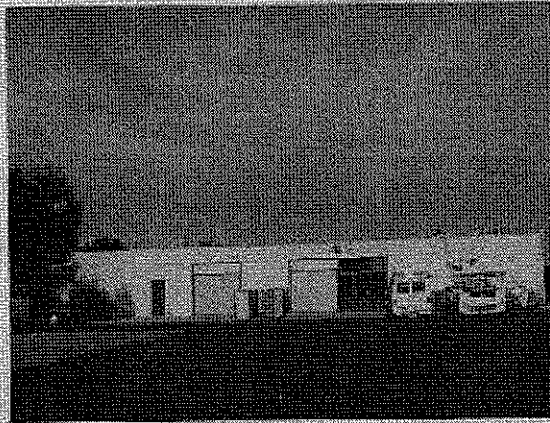
Building: 2 Administration Office Building

Year of Construction:	NA	Construction Class:	D
USA?:	NA	Exterior Walls:	SS, ST
Area (Square Feet):	646	Roof Construction:	WDC
Height:	11	Floor Construction:	RI
Stories:	1	Interior Walls:	DW
Basement:	NA	Collar:	AT
SB (Fire Alarm Class):	E	Floor:	CC
Classification:	G	Work:	CCB
Co. County:	SI	Heating:	SC
Zip Code:	92542	Air Conditioning:	RA
		Fire Code:	FALB



Station 1 Shop and Maintenance Office Building

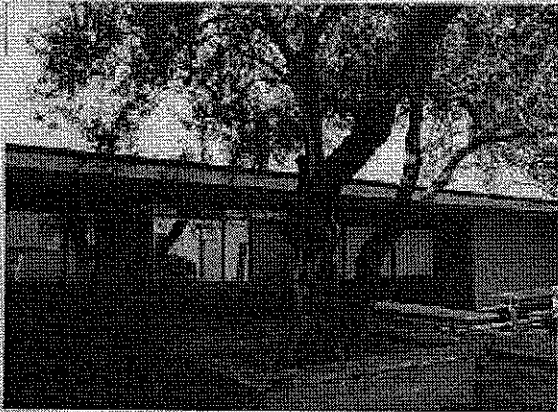
Final Construction	1961	Architect/Engineer	U
Construction	N/A	Interior Finish	IS
Original Cost	\$6,000	Mechanical	WEJ
Height	46	Roofing	SL
Stories	1	Exterior Walls	DW, C, FW
Basement	No	Cladding	AI, O
Number of Units	1	Paint	CO
Construction	C	Windows	ECD
Number of Units	58	Sealing	PA, SAN
File No.	82260	Site Construction	EC
		Asbestos	FALR



Worksheet 1 Employee Lounge Building

State of Construction: **NA**
 Task: **NA**
 Area: **NA**
 Budget: **10**
 Status: **1**
 Interest: **NA**
 MSRP Price Class: **1**
 Location: **43**
 CA County: **33**
 Pin Code: **92262**

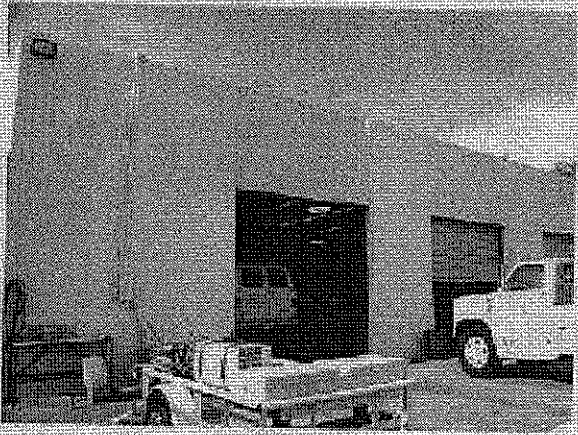
Construction Class: **11**
 Category: **11**
 Item Construction: **WB**
 Risk Category: **RL**
 Interest Class: **10**
 Budget: **11**
 Status: **11**
 Interest: **11**
 MSRP Price Class: **11**
 Location: **11**



Building: 5 Service Garage

Year of Construction: 1961
OSHA #: N/A
Area Occupied (Sqr Ft): 4,200
Height: 22
Stories: 1
Snowload: No
FBI Fire Prod. Class: I
Condition: G
Car Counts: 33
EIR Code: 92162

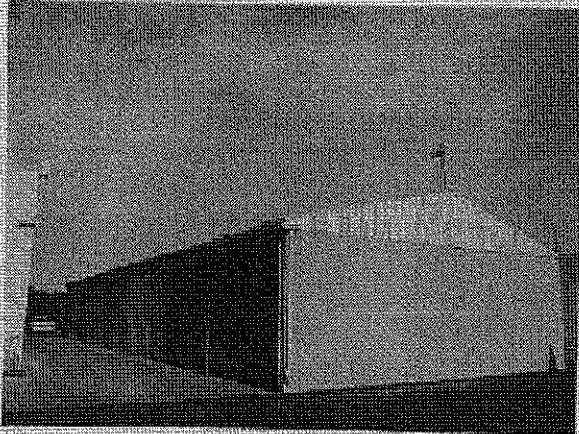
Construction Class: C
Fire Alarm: FC
Roof Construction: N/A, WBI
Roof Covering: RL
Interior Walls: G
Ceiling: O
Floor: CO
Wiring: XCB
Elevators: EA, RIS
Air Conditioning: AC
Fire Code: FALB



Structure # Storage Building

Year of Construction: 1961
 C.S.A. #: 395
 Area (Square Feet): 1,104
 Bays: 12
 Stalls: 4
 Basement: No
 NEHRP Type Class: I
 Condition: A
 F.L.L. walls: 34
 Zoning Code: 9220

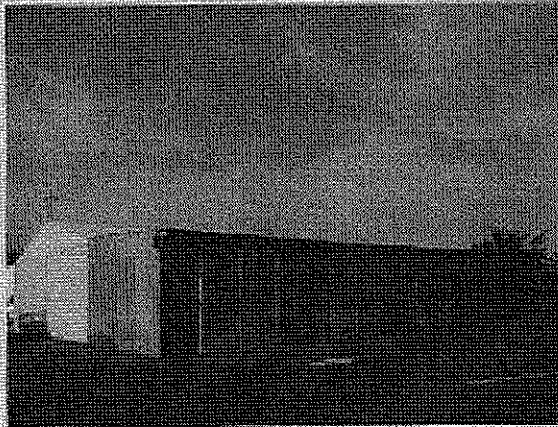
Foundation Class: C
 Exterior Walls: TC
 Roof Construction: WM
 Roof Covering: JFM
 Interior Walls: O
 Floor: O
 Floor: CO
 Windows: CCB
 Heating: NA
 Air Conditioning: NA
 Elevators: NA



Building: 7 Storage Shed

Year of Construction: NA
Year: NA
Area (Square Feet): 1,125
Height: 31
Stories: 1
Roofspan: NA
Sill Plate Class: 1
Foundation: A
F.A. Class: B3
Zip Code: 91162

Construction Class: S
Energy Code: 88
Wind Construction: STD
Roof Construction: STD
Interior Walls: O
Ceiling: O
Floor: CO
Walls: NA
Roofing: NA
A.D. Classification: NA
Use Code: NA



Building # Warehouse Building	
Area of Construction:	N/A
Area:	N/A
Accession Number:	1,004
Height:	14
Stories:	1
Roofed:	No
SH Form Class:	1
Condition:	Q
File Number:	13
File Code:	92002
Construction Class:	S
Exterior Walls:	SS
Roof Construction:	ST3
Roof Covering:	ST3A
Interior Walls:	O
Flooring:	O
Floor:	CO
Stairs:	CC3
Heating:	NA
Air Conditioning:	DP
Electricity:	NA

Worksheet: 9 Weld Shop Building

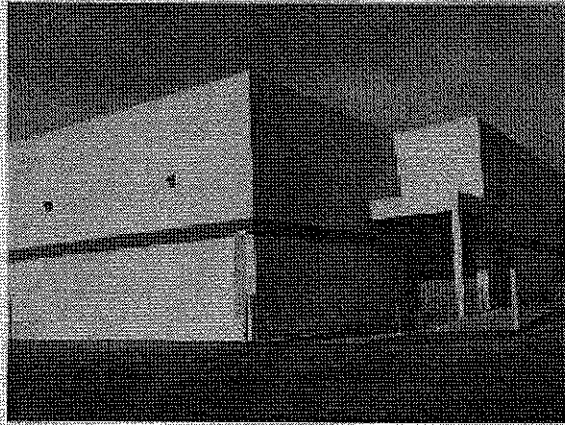
Year of Construction:	NA	Construction Class:	S
City:	NA	Interior Walls:	SS
Area (Square Feet):	960	Roof Construction:	RTM
Floors:	12	Roof Ceiling:	RTM
Stairs:	1	Exterior Walls:	O
Basement:	NA	Coling:	O
NFPA Fire Class:	1	Paint:	CO
Construction:	G	Windows:	COE
		Heating:	NA
Area (Square):	33	Air Conditioning:	RT
Zip Code:	92362	Fire Alarm:	NA



Building: **U** Fund Service Warehouse

Year of Construction: **1999**
USA or CAN: **USA**
Area (Square Feet): **11,487**
Height: **12**
Stories: **1**
Elevator: **Yes**
SR Fire Alarm: **Class 1**
Condition: **G**
CA County: **33**
Zip Code: **91261**

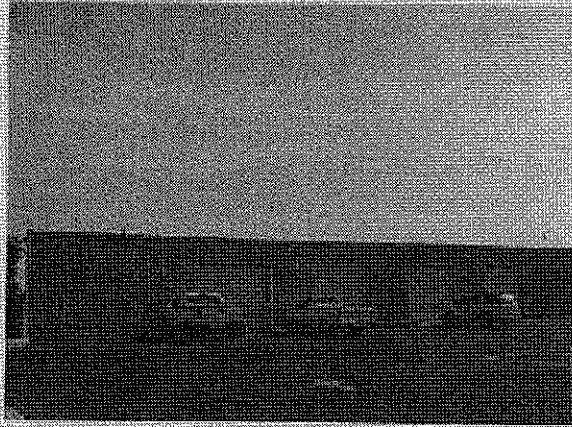
Construction Class: **C**
Exterior Walls: **TC**
Roof Construction: **STB, WDB, WDI**
Roof Covering: **RI**
Roofing Walls: **DW, O**
Frame: **SC, C**
Floor: **CO**
Wiring: **ECB**
Heating: **EA**
Air Conditioning: **DF**
Gas Cook: **EST, EL, EALH**



Building II - Storage Building

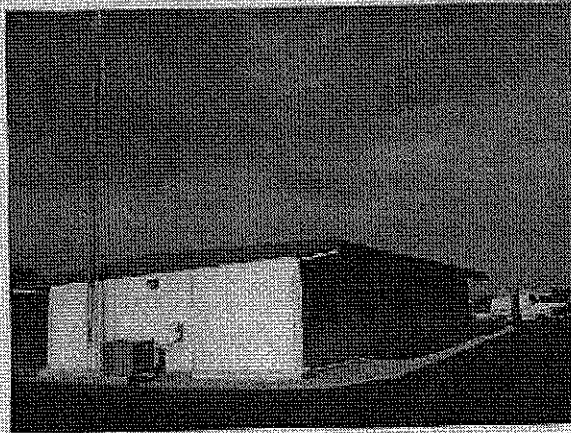
Year of Construction: 1999
City: N/A
Square Footage: 4,500
Height: 11
Stories: 1
Basement: No
NE Tree Risk Class: 1
Condition: G
City Code: 33
Exp. Code: 51262

Construction Code: S
Fire Alarm/Sign: SS
2011 Construction: SIF
Hazard Category: STM
Roofing Material: O
Exterior: O
Floor: CO
Insulation: CCB
Heating: N/A
Site Furnishings: N/A
Exp. Code: N/A



Building 13 Maintenance Offices

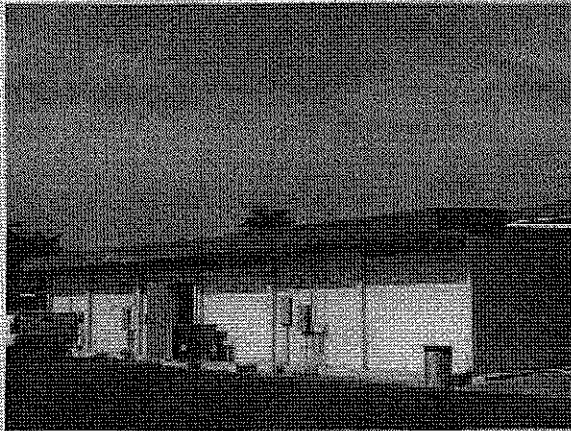
Year of Construction	1957	Construction Class	S
Owner	NSA	Yardside Value	\$5
Area (Square Feet)	1,978	Roof Condition Exp.	NAD
Height	10	Roof Covering	SIM
Stories	1	Interior Walls	DW, PL
Stairways	NA	Class	AT
NE Elevator Elev.	1	Unit	CO
Exterior	G	Plating	CCE
		Painting	NA
Env. Control	N	Air Conditioning	DF
Est. Code	92262	Over Code	JE, FALC



Building 13 Maintenance Office

Year of Construction: 1987
 Address: MA
 Approximate Price: 1,020
 Height: 50
 Structure: I
 Material: N6
 NB Fire Prot. Class: I
 Condition: C
 S&B Category: 33
 Gen Code: 92101

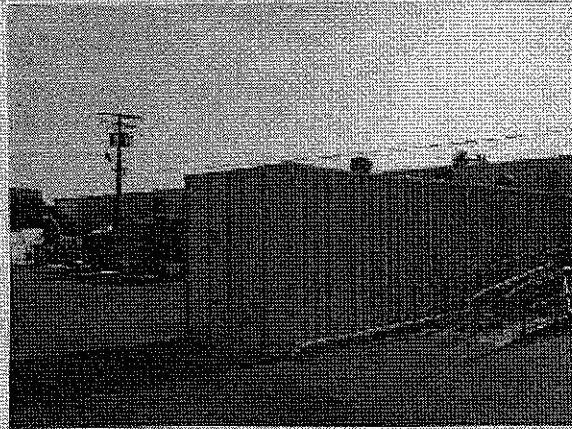
Construction Class: S
 Exterior Walls: SX
 Roof Construction: ST1
 Roof Covering: STM
 Interior Walls: DW, PL
 Ceiling: AT
 Floor: CD
 Window: CCB
 Sealing: NA
 Air Conditioning: BP
 Fire Code: FE, FALK



Model: 14 Storage Container

Special Coating Class: NA
Class: NA
Area Square Feet: 300
Height: 8
Stairs: 1
Roof: NA
NEMA Type Class: 2
Construction: A
Capacity: 35
File No: 92282

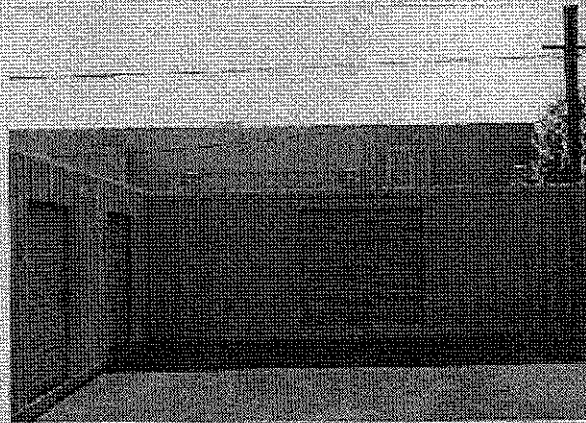
Construction Class: S
General Note: SS
Wind Construction: STM
Wind Coverage: STM
Interior Walls: O
Exterior: O
Interior: WB
Walls: NA
Roofing: NA
Air Conditioning: V
Exhaust: NA



Building: 18 Storage Container

Special Concerns: N/A
Access: N/A
Area: Square Feet: 125
Height: 8
Stories: 1
Basement: No
Storage Prod. Class: 3
Condition: A
Fire County: 33
Zip Code: 92162

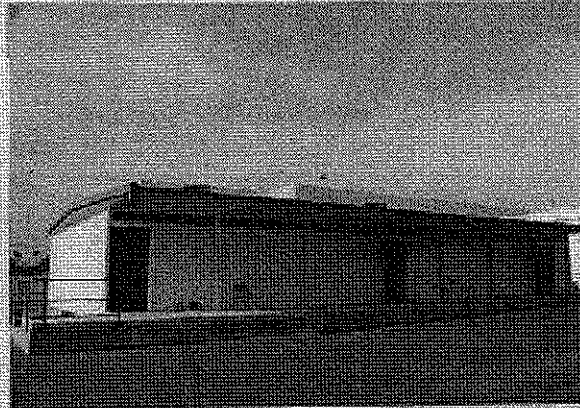
Construction Class: 5
Exterior Siding: SS
Roof Construction: STM
Roof Covering: STM
Interior Wall: G
Exterior Wall: G
Floor: SC
Ceiling: NA
Insulation: Y
Fire Code: NA



Building 28 - Modular Print Shop and Graphic Bldg.

Year of Construction: 1997
 City: MCA
 APN: 000000000 22-00
 Height: 10
 Stories: 1
 Basement: No
 Mechanical Code: I
 Electrical Code: G
 CA License: 55
 District: 02202

Construction Class: S
 Fire Alarm: SS
 Fire Extinguishers: STD
 Roof Covering: STM
 Interior Finish: DW, PI
 Ceiling: A-1
 Floor: CD, WD
 Stairs: CFB
 Heating: NA
 Air Conditioning: DP
 Elevator: EE, EALB



SECOND AIRPORT PROPERTY

DIMENSIONS OF SSC BUILDING

Since the original Statement of Qualifications process was completed, this Airport property has become vacant and is included in the Scope of Work for this contract. The facility has been occupied by a go-cart manufacturer, SSC Racing, and the entire building is vacant and available for tenants. Following is an overview of the property.

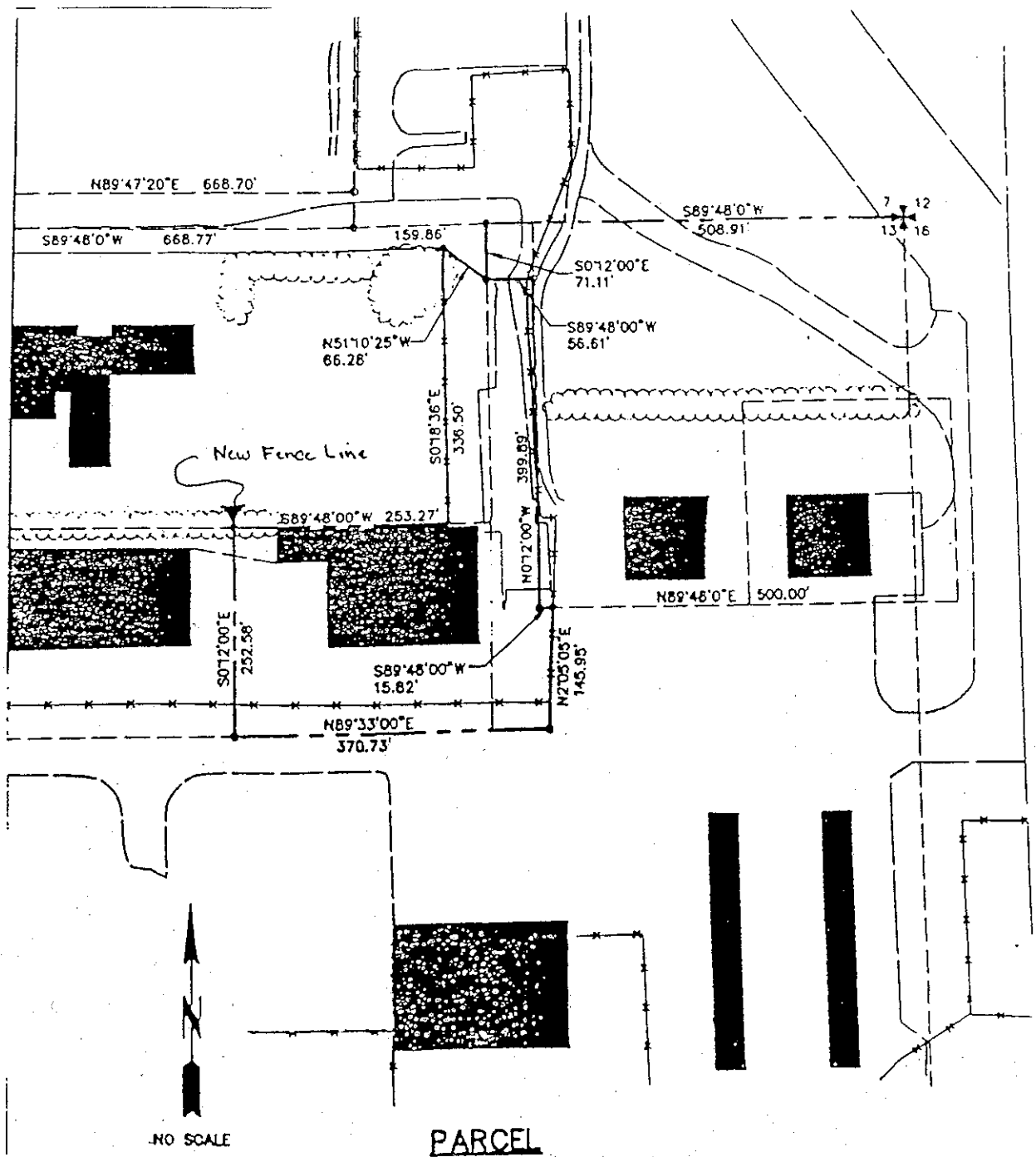
Main Building =	18,000 sq. feet
Office Loft =	1,280 sq. feet
Assembly Building =	10,164 sq. feet
Loft =	<u>10,164 sq. feet</u>
ESTIMATED TOTAL:	39,608 sq. feet

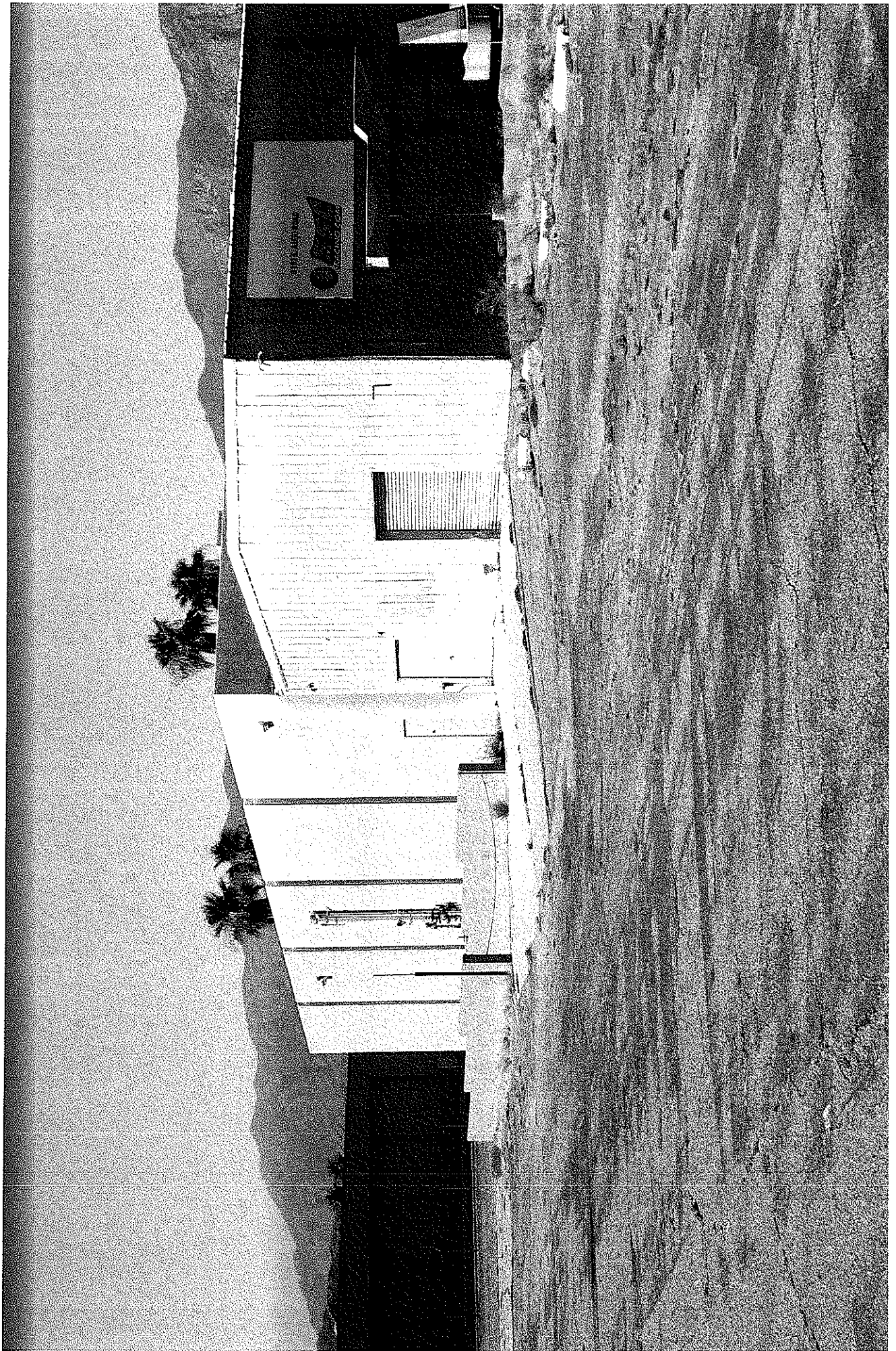
LEGAL DESCRIPTION OF DEMISED PREMISES

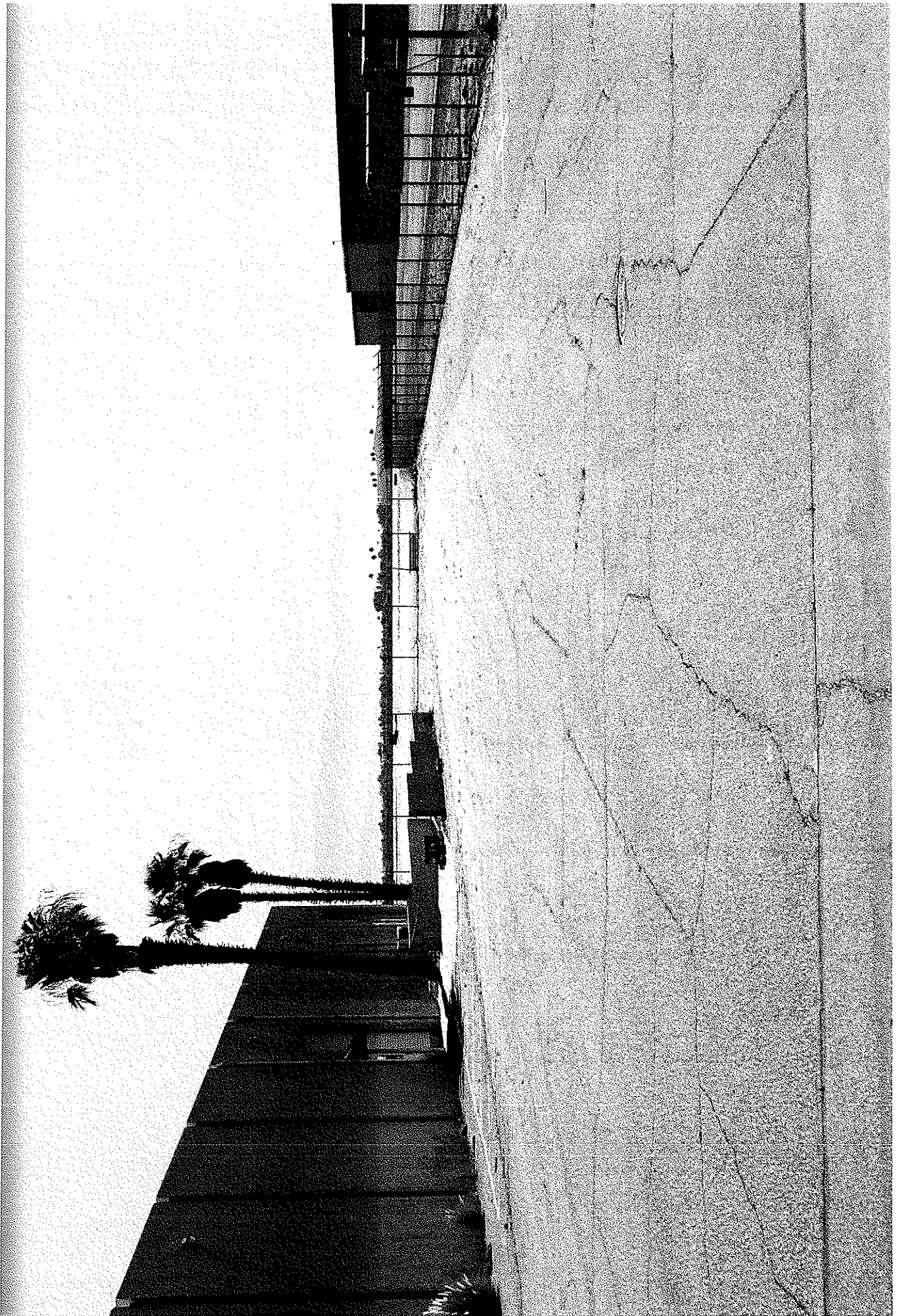
Those certain portions of section 13, Township 4 South, Range 4 East, San Bernardino Base and Meridian, in the City of Palm Springs, County of Riverside, State of California, being more particularly described as follows:

Commencing at the Northeast corner of said section 13, thence along the northerly line of section 13, South 89°48'00" West a distance of 508.91 feet; thence South 0°12'00" East a distance of 71.11 feet to the true point of beginning, thence North 51°10'25" West a distance of 66.28 feet; thence South 0°18'36" East a distance 336.50 feet; thence South 89°48'00" West a distance of 253.27 feet; thence South 0°12'00" East a distance of 252.58 feet, thence North 89°33'00" East a distance of 370.73 feet, thence North 2°05'05" East a distance of 145.95 feet; thence South 89°48'00" West a distance of 15.82 feet; thence North 0°12'00" West a distance of 399.89 feet; thence South 89°48'00" West a distance of 56.61 feet to the point of beginning. Said parcel containing 2.882 acres.

DEPICTION OF DEMISED PREMISES









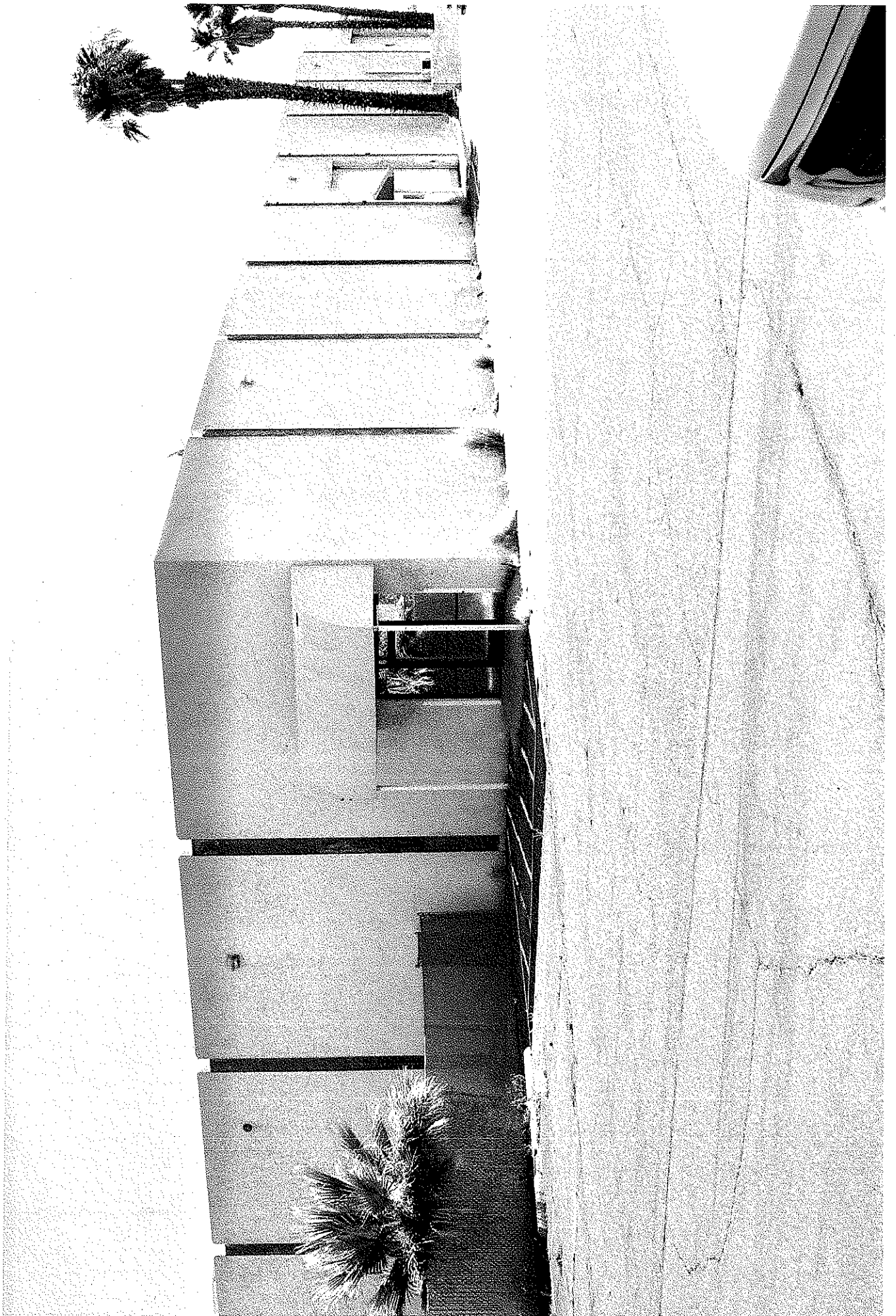
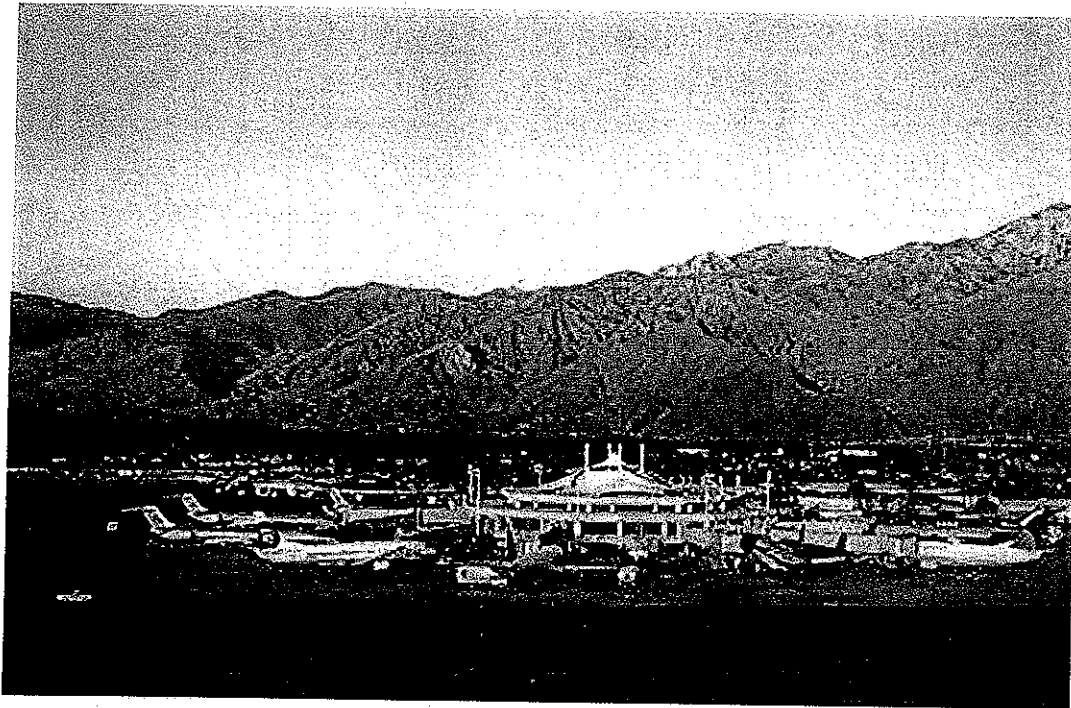


EXHIBIT "C"

CONSULTANT'S PROPOSAL

**PALM SPRINGS INTERNATIONAL AIRPORT
SUBMISSION**



Presented
By:

John Stiles

2066 Tamarisk Road
Palm Springs, CA 92262
760-323-4886
stilesj@svn.com

Submission Contents

- Information on Sperry Van Ness
- Key Personnel
- Past Experience/References
- Scope of Services
- Local Preference



Asset Management | Leasing | Investment Sales

October 26, 2010

To Whom It May Concern:

I am an independent contractor associated with Sperry Van Ness Real Estate Advisors, a nationwide firm.

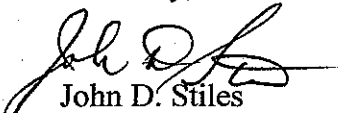
The firm was founded by Rand Sperry and Mark Van Ness in 1988 in Irvine, California and has enjoyed excellent growth over the years. With full service brokerage offices throughout the United States, the support provided by these offices in marketing properties has proved very effective even in a down market. More information on Sperry Van Ness follows this letter.

As a Licensed California Real Estate Broker, I am authorized to sign for SVN in all cases where we take listings. My full contact information is:

John Stiles, Vice President
Sperry Van Ness
2066 Tamarisk Road
Palm Springs, CA 92262
Phone: 760-323-4886
Cell: 760-567-9219
Fax: 760-323-4886
Email: stilesj@svn.com

I have worked, as a licensed real estate professional since I was first licensed in 1982. My experience is in the Coachella Valley. With a local presence and a national platform we are prepared to provide a high level of professional service to the City of Palm Springs.

Sincerely,


John D. Stiles
Vice President/Broker

Why Sperry Van Ness

Rand Sperry and Mark Van Ness first met while working on opposing sides of an investment deal in 1977. Mark's client wanted to purchase a property listed by Rand, whose firm did not cooperate with outside brokers.

Imagine if your own broker actually discouraged buyers from bidding on your property! It happens everyday.

Mark represented his client in the transaction, but received only a small referral fee – not a commission from Rand's broker. This common practice of broker exclusion causes properties to sell for less than their actual value, or not sell at all. The proof? Mark sold the same property soon after, demonstrating the value of full broker cooperation – with a 400 percent profit for his client.

From Solution to Revolution

Sperry Van Ness® was created in 1987 with a new philosophy: putting the client's interest first, by aggressively marketing to and cooperating with all brokers. This strategy creates a "bidding war" in the marketplace. In an industry where the status quo is to double end deals, Sperry Van Ness forged a new approach. We have a written policy of cooperation on every listing. No other brokerage firm does that!

Even today, Sperry Van Ness remains the only firm that places the client's interests first, with our policy of marketing to the entire brokerage community.



"Giving up half your income in order to put clients first is something many brokers can't swallow." -Mark Van Ness

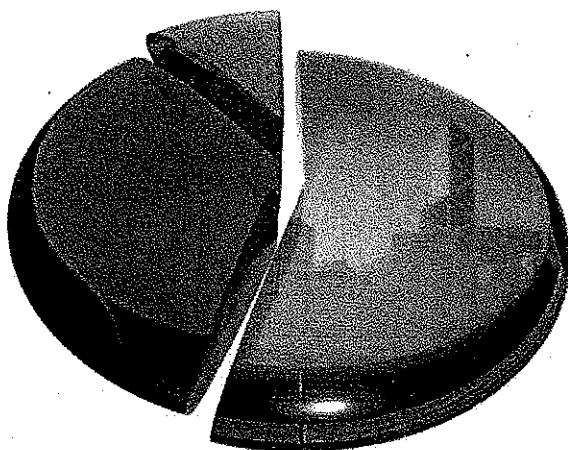
 **Sperry Van Ness.**
MEMBER OF THE

The information listed above has been obtained from sources we believe to be reliable, however, we accept no responsibility for its correctness.

Why Our System Works

Consider This

The country's top five national brokerage firms account for only thirteen percent of all transactions. The other 87 percent of transactions are conducted by other national firms, regional firms, and independent brokers. Since Sperry Van Ness is the only national firm that markets to the entire brokerage community, even-if you hired the top five brokerage firms to list your property, you would still be missing out on 87% of the other market. We mobilize the entire brokerage community to work for you - something that no one else does!



- 52% - Independent
- 35% - Other National, Regional and Local Firms
- 13% - Largest Five

So, if you're not working with Sperry Van Ness, you're missing out on 87% of the marketplace.

Sperry Van Ness Broker Cooperation Policy

We are the only major brokerage firm with a policy of proactive broker cooperation on every listing to gain maximum exposure and to ensure that you receive the highest price the market will allow for your property. We have our own buyers as well, but they represent just a fraction of the pool of viable investors. So, even our own buyers must compete with all buyers in the marketplace.

The Proof is in the Results!

Sperry Van Ness invests in state-of-the-art marketing tools to further support our "client first" policy. Sperry Van Ness has been ranked as one of the most powerful commercial brokerage firms in the U.S. (Commercial Property News).

 Sperry Van Ness.

The information listed above has been obtained from sources we believe to be reliable, however, we accept no responsibility for its correctness.

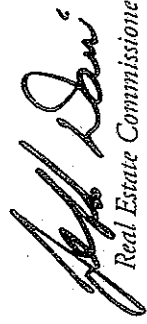
STATE OF CALIFORNIA

Department of Real Estate
Serving Californians Since 1917

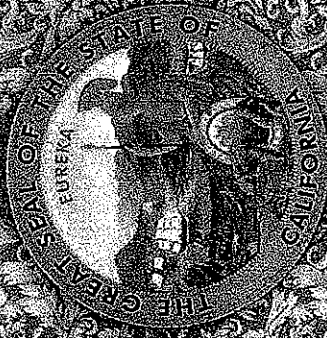
Real Estate Broker License

John D Stiles Jr

MAIN OFFICE ADDRESS
2066 TAMARISK RD
PALM SPRINGS, CA 92262


Real Estate Commissioner

Identification Number: 00816328 Issued: May 30, 2009 Expires: May 29, 2013



STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate on 10/26/2010 8:23:02 PM

License Type:	BROKER
Name:	Stiles, John D Jr
Mailing Address:	2066 TAMARISK RD PALM SPRINGS, CA 92262
License ID:	00816328
Expiration Date:	05/29/13
License Status:	LICENSED
Broker License Issued:	04/22/82 (Unofficial -- taken from secondary records)
Former Name(s):	NO FORMER NAMES
Main Office:	2066 TAMARISK RD PALM SPRINGS, CA 92262
DBA	NO CURRENT DBAS
Branches:	NO CURRENT BRANCHES
Affiliated Licensed Corporation(s):	01096972 - Officer Expiration Date: 12/16/94 Recreation Properties International Inc EXPIRED AS OF 12/17/94
	00853562 - Officer Expiration Date: 09/22/03 Cove Management Services Inc EXPIRED AS OF 09/23/03
	01294815 - Officer Expiration Date: 08/28/04 Resortquest International Inc EXPIRED AS OF 08/29/04
	00814650 - Officer Expiration Date: 06/04/97 J D S Financial EXPIRED AS OF 06/05/97

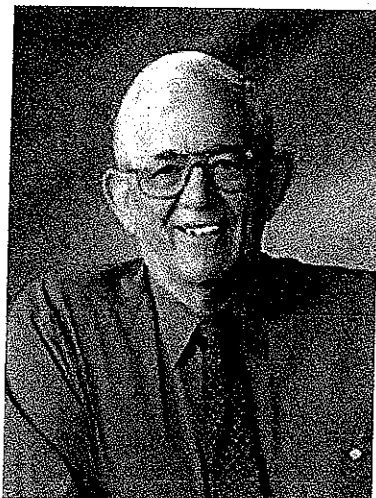
Comment:

NO DISCIPLINARY ACTION

NO OTHER PUBLIC COMMENTS

>>>> Public information request complete <<<<

Sperry Van Ness Advisors



John Stiles
DRE#00816328

Vice President
Sperry Van Ness

John D. Stiles has served as Vice President for Sperry Van Ness since 2001, specializing in the sale and lease of investment property in the Palm Springs/Coachella Valley, California market. With more than 27 years of commercial real estate experience, he has completed transactions with a sales volume valued in excess of \$200 million. In addition, he received the Sperry Van Ness Achiever award given to the firm's top producers in 2005 and 2007.

Prior to joining Sperry Van Ness, Stiles owned and operated a commercial real estate brokerage firm. He has more than 13 years of banking experience including real estate and commercial loans. Also, as a property manager for one of the largest commercial development firms in the area, he was responsible for leasing property and maintenance. Previously, he was the executive director of the Coachella Valley Enterprise Zone where he gained a working knowledge of various business tax incentives and gained experience working with local governments.

Stiles' extensive background includes being involved in all phases of leasing (tenant & owner representation), selling and buying of properties. He has completed sales of office buildings, industrial and retail properties throughout the Coachella Valley. In addition, he has experience in Indian lease land transactions, and has served as a court appointed receiver.

As an active member of his community, Stiles is a past president of the Palm Springs Chamber of Commerce, Airport Commission, Convention & Visitors Bureau, Rotary Club, Desert Area Commercial Information Exchange and College of the Desert Board of Trustees. He was a co-founder of the Coachella Valley Economic Partnership and a past president of the Palm Springs Economic Development Corporation.

Stiles received his bachelor's degree from Claremont McKenna College.

PAST EXPERIENCE/REFERENCES

Licensed since 1982 and active in the Coachella Valley Commercial Real Estate Market since that time. As an active broker, I have been involved in all types of commercial transactions including but not limited to: large land sales, office and industrial sales & leasing and Indian Lease Land transactions.

Size or lack of size of a commercial real estate transaction should not be major criteria for judging experience. Over the years most qualified commercial brokers have done a variety of transactions that would give them experience for this project.

It is difficult to categorize this project. Will it be leased as one entity or a number of smaller buildings? Given the uncertainty of market acceptance, I think the overall experience of a broker is the key to successfully leasing out the property.

Following are three references in Palm Springs that I am currently marketing and leasing.

1. Rancho One 11 office park an 18,000 s/f project in Rancho Mirage. This is an office leasing project involving unfinished units. To complete a lease I must work with a tenant on a floor plan, get a cost estimate and then make a leasing proposal. A number of issues are involved in eventually executing a lease.

Contact: Martha Higgins, Vice President
Wessman Development Co.
760-325-3050
Martha@wessmandevelopment.com

2. Tramway Industrial Center is a 12,000 s/f multi tenant project in Palm Springs. These are finished units and I am marketing to the small business organizations through direct mail, property sign, bar code and limited newspaper advertising.

Contact: David Bell, Owner
760-325-2780
davestoe@aol.com

3. 3001 Tahquitz Canyon Way office building of 11,530 s/f. Leasing finished office suites to professionals. Need to negotiate lease terms, possible tenant improvements and conclude a lease.

Contact: Ken Kishimizu, President of Tahquitz Properties, Inc.
760-322-6884
emcken@earthlink.net

SCOPE OF SERVICES

Marketing a property with the goal of successfully leasing a property requires the knowledge that you never know where your client will come from. With that thought in mind a successful marketing program is designed to reach as many prospects –brokers and businesses- as possible.

The following page entitled Marketing Services Provided outlines the full range of tools utilized by Sperry Van Ness in their marketing efforts. Following that page is a draft Marketing Calendar which we review with our clients as we begin a marketing program. To insure there is ongoing communication we provide a monthly marketing report. A draft copy of this report follows the calendar. Combining our advanced tools with our Marketing Calendar and continuing communication about our efforts we offer our clients professionalized services with proven results.

The Palm Springs Airport web site is a challenge as it is primarily a travel site. The site information icon would have to be placed very visibly on the home page to try and obtain some activity from the site. There would have to be some modification to the information provided to include the brokerage firm representing the airport and contact information. Working this site into the marketing program would require marketing meetings with staff, IT personnel and Sperry Van Ness to determine how to best utilize the site due the limitations of the Palm Springs web page.

Probably more beneficial to the leasing effort is the City of Palm Springs Economic Development site. This site has a real estate section restricted to Palm Springs connected to Loopnet. When the airport property is listed and placed on Loopnet the property would be available to anyone searching for commercial property in the City of Palm Springs.

MARKETING SERVICES PROVIDED

OBJECTIVE

To provide the greatest possible exposure for each property in SVN's inventory. Our policy is to cooperate with all brokers and investors as the origin of the lessee is unknown until they become aware of the property.

BROCHURE

A property multipage brochure is prepared for all properties and is distributed electronically or in hard copy.

NATIONAL TELECONFERENCE

National Marketing Call to all Sperry Van Ness Agents when the property is listed.

SVN NATIONAL INVENTORY

Property is added to SVN's national inventory base and e-mailed to all SVN agents, outside brokers and investors on the e-mail list which contains about 55,000 addresses.

BROKER CONTACTS

A proprietary list of over 165 Coachella Valley brokers and about 229 Southern California brokers who receive e-mail fliers (email blasts) on a consistent basis. Also utilized are commercial firms who send email blasts to individual states or nationwide. (One firm's data base is about 188,000) SVN provides e-mail access to all SVN Agents countrywide.

Desert Area Commercial Information Exchange, an organization of local commercial brokers, meets monthly where properties are discussed and property fliers distributed.

ADVERTISING

Wall Street Journal and Los Angeles Times advertising is used when appropriate. In the past, we have advertised in Korean & Chinese language newspapers.

ELECTRONIC LISTING SERVICES

Listed properties are placed on national electronic Commercial property listing sites. These sites are available to brokers, investors and the general public.

LOOPNET –

www.loopnet.com

Desert Area Commercial Information Exchange –

www.desertareacie.com

Desert Area Multiple Listing Service (MLS) –

www.caldesertrealtors.com

Property Line –

www.propertyline.com

Commercial Source –

www.commercialsource.com

American Industrial Real Estate Association

www.airea.com

Other sites receive the listings due to the distribution agreements between Loopnet and DACIE to share information for certain subscribers such as Riverside County EDA and CityFeet.

DIRECT MAIL

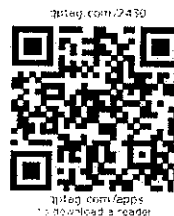
Postcards are utilized to make direct contact with prospects. Mailing lists vary from 200 to 1800 names both in the Coachella Valley and around the country. Special mailing lists may be purchased for unique properties.

PROPERTY SIGNS

All properties listed by Sperry Van Ness have 3 x 4 property signs posted on the property.

BAR CODES

Attached to property signs. Smart phones can download all property information.



PSP Marketing Calendar

Action Item	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
<input checked="" type="checkbox"/> MARKETING START-UP Prepare Marketing Brochure Photos/Slides Install Leasing Sign on Property						
<input checked="" type="checkbox"/> FORUMS Local SVN Broker Forums Company Wide Sales Forums						
<input checked="" type="checkbox"/> MARKETING Email to Outside Brokers Postcards Mailed to Brokers and Principals Nationwide Email Blast to Investors and Brokers						
<input checked="" type="checkbox"/> CONTACTS Contact Active Buyers and Sellers Follow Up on All						
<input checked="" type="checkbox"/> NEWSPAPERS/ INTERNET ADVERTISING Local/Regional Advertising Wall Street Journal Sperry Van Ness Web Page LoopNet.com Desertareacie.com Propertyline.com						
<input checked="" type="checkbox"/> FEEDBACK Written Communication Meetings (as Needed)						

Marketing Report

Email 10/6/10 3:58 pm **Subject**

Contact: Thomas P. Nolan, A.A.E./Palm Springs International Airport

User 1

User 2

User 3

User 4

Project Palm Springs International Airport

Status Information Request

Notes

Received notice of request for Statement of Qualifications.

- Sent package
- Sign call
- Logical 3
- Logical 4

Follow up 10/13/10 4:01 pr **Subject**

Contact: Thomas P. Nolan, A.A.E./Palm Springs International Airport

User 1

User 2

User 3

User 4

Project Palm Springs International Airport

Status Property Tour

Notes

Drove PSUSD property to get a feel of the project.

- Sent package
- Sign call
- Logical 3
- Logical 4

Letter 10/26/10 4:03 pr **Subject**

Contact: Thomas P. Nolan, A.A.E./Palm Springs International Airport

User 1

User 2

User 3

User 4

Project Palm Springs International Airport

Status Presentation

Notes

Delivered Statement of Qualifications to the City of Palm Springs.

- Sent package
- Sign call
- Logical 3
- Logical 4

For more information contact:

John Stiles
Stiles & Associates
760-323-4886 jdstiles@dc.rr.com



The information above has been obtained from sources believed reliable. We do not doubt its accuracy but have not verified it and make no guarantee, warranty or representation about it. It is your responsibility to independently confirm its accuracy and completeness. Any projections, opinions, assumptions, or estimates used are for example only and do not represent the current or future performance of the property. You should conduct an individual evaluation with your own advisors as to the suitability of this property.

LOCAL PREFERENCE

This is a request of Local Preference per Notice Inviting Statement of Qualifications dated October 6, 2010.

A copy of my current City of Palm Springs Business License is below.

CITY OF PALM SPRINGS BUSINESS LICENSE

3200 E TAHQUITZ CANYON WAY, PALM SPRINGS, CA 92262 (760) 323-8289

PLEASE NOTE THAT IT IS YOUR RESPONSIBILITY TO RENEW AND UPDATE THIS LICENSE ANNUALLY.

BUSINESS NUMBER:	97008787	EXPIRATION	TAX/ADMIN. FEE	CERT NO
BUSINESS TYPE:	CONSULTING/REAL ESTATE	03/31/2011	18.00	26042
OWNER NAME:	STILES, JOHN	03/31/2011	67.00	26043
BUSINESS NAME:	STILES, JOHN			
BUSINESS ADDRESS:	2066 TAMARISK RD PALM SPRINGS, CA 92264			

STILES, JOHN
2066 TAMARISK RD

PALM SPRINGS CA 92262

ISSUANCE OF THIS LICENSE DOES NOT ENTITLE THE LICENSEE TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THIS IS NOT AN ENDORSEMENT OF THE ACTIVITY NOR OF THE APPLICANT'S QUALIFICATIONS.

MUST BE POSTED IN A CONSPICUOUS PLACE

ATTACHMENT "A"

SOQ 04-11

COMMERCIAL REAL ESTATE BROKERAGE / LEASING AGENT SERVICES

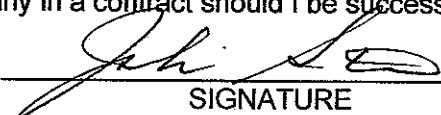
NOTE: THIS FORM MUST BE COMPLETED AND INCLUDED WITH YOUR SUBMITTAL

SIGNATURE AUTHORIZATION

NAME OF PROPOSER/FIRM:

JOHN STILES / SPERRY VADNESS

- A. I hereby certify that I have the authority to offer this proposal to the City of Palm Springs for the above listed individual or company. I certify that I have the authority to bind myself/this company in a contract should I be successful in my proposal.


SIGNATURE

JOHN STILES
PRINT NAME

- B. The following information relates to the legal contractor listed above, whether an individual or a company. Place check marks as appropriate:

1. If successful, the contract language should refer to me/my company as:

An individual;
 A partnership, Partners' names: _____

A company;
 A corporation
 A Local Business (Licensed within the jurisdiction of the Coachella Valley).
Copy of current business license is required to be attached to this document.

2. My tax identification number is: 33-0785332

ADDENDA ACKNOWLEDGMENT:

Acknowledgment of Receipt of any Addenda issued by the City for this SOQ is required by including the acknowledgment with your submittal. Failure to acknowledge the Addenda issued may result in your submittal being deemed non-responsive.

In the space provided below, please acknowledge receipt of each Addenda:

Addendum(s) # 1 is/are hereby acknowledged.

EXHIBIT "D"

SCHEDULE OF COMPENSATION

EXHIBIT "D"

SCHEDULE OF COMPENSATION

Because this is a facility lease and not a sale of property, the compensation to the Consultant will be a negotiated lump sum payable after the lease agreement is executed by tenant(s) and then calculated as a percentage of the gross lease rentals to the City. Should the Consultant be unsuccessful in finding a tenant by the end of the term of the Agreement, there will be no fee paid.

The terms of the commission shall be as follows:

GROSS LEASE for a term of up to 30 years:

1 st year	6% of the gross lease rent
2 nd year	6% of the gross lease rent
3 rd year	5% of the gross lease rent
4 th year	4% of the gross lease rent
5 th year	4% of the gross lease rent
6 th through 10 th year	3% of the gross lease rent
11 th through 30 th year	2% of the gross lease rent

- 1. Term of More Than Thirty (30) Years:** If the initial lease term is in excess of thirty (30) years, then the commission shall be calculated only upon the gross rental to be paid during the first 30 years of the term of the lease.
- 2. Sublease or Assignment:** 6% of the gross rent payable under the assignment of subleasing of a gross lease during the balance of the term. If a cash bonus or lump sum is paid by the successor tenant, a sales commission shall also be paid in accordance with this schedule.
- 3. Month-to-Month Tenancy:** The commission shall be 50% of the first month's rent but in no event less than \$400.00. In the event a month-to-month subsequently executes a lease, either direct with the City or through the Consultant, within 24 months from the date of occupancy of the month-to-month tenant, then Consultant shall receive a leasing commission in accordance with the provisions of this schedule.
- 4. Extensions of Lease or Additional Space Taken:** Should the term of the lease be extended or the tenants occupy additional space, then a leasing commission shall be paid when said term is extended or said additional space is occupied. The leasing commission shall be computed in accordance with the provisions of this schedule and by using the rates applicable as if the initial term of the lease had included said extension period or the premises initially demised had included said additional space.

5. **Purchase of Property by Tenant:** Should tenant, his successors, or assignees purchase the subject property during the term of the lease or any extension thereof or within 180 after the expiration thereof, then a sales commission shall be paid when the purchase is affected. Said commission shall be 5% of the gross sales price less the amount of paid lease commissions related to that portion of the lease term extending beyond the effective date of said purchase.

6. Leasing and subleasing commissions shall be paid upon execution and delivery of a lease by City and tenant.

7. If City fails to make any payment at the time required, the delinquent sum(s) shall bear interest at the maximum rate permitted by law.