




CITY OF PALM SPRINGS

DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: April 25, 2012 OTHER BUSINESS

To: The Planning Commission

From: Craig A. Ewing, AICP, Director of Planning Services 

Subject: Museum Market Plaza Specific Plan – Implementation / Review Process

Later this year, the Planning Commission will review development plans for renovation and reconstruction at the Desert Fashion Plaza site. This memo provides an opportunity for the Commission to consider and discuss the procedures that it will use to review the pending applications. Staff will present an overview of the attached materials to precede the Commission's discussion.

Attachments:

1. Museum Market Plaza Specific Plan, Section V
2. Museum Market Plaza Specific Plan Phasing Plan (Exhibit V-1)
3. Project Financing Agreement (Exhibit D / Performance Schedule)

V. ADMINISTRATION AND IMPLEMENTATION

A. Application Review Process

The implementation tools for the Specific Plan will be Major Architectural Reviews, Conditional Use Permits and subdivision maps. Under certain conditions, Planned Development Permits may be required, if the condition meets the standards of section V-B, below.

The successful implementation of the Museum Market Plaza Specific Plan is critical to the long-term health of downtown Palm Springs. In order to assure an efficient and streamlined entitlement process, applications for areas within the Specific Plan will require special handling. This Specific Plan establishes a permit streamlining process which will assure the thorough review of Major Architectural Review, Conditional Use Permit and subdivision applications.

1. Application Requirements and Process

Major Architectural Review applications will include the following in addition to the materials required as part of a standard Major Architectural Review application:

- a. A progressive calculation of building square footage and mass, provided on the site plan. The analysis shall include square footage and mass permitted for the applicable Block under the Specific Plan (Table III-3); square footage and mass approved to date; and square footage and mass proposed with the application.
- b. If the project is for hotel or residential use, a progressive calculation of the number of hotel rooms or residential units provided on the site. The analysis shall include rooms or units permitted for the Specific Plan area approved to date and roomr or units proposed with the application.
- c. If the project is for retail or office use, a progressive calculation of the square footage provided on the site. The analysis shall include square footage permitted for the Specific Plan area approved to date and square footage proposed with the application.
- d. A calculation of parking required, parking provided within the applicable Block, and parking provided elsewhere in the Specific Plan area.
- e. If parking is proposed to be located outside the boundaries of the Block where the use is to occur, the application shall include a demonstration that sufficient parking occurs elsewhere in the Specific Plan area, and shall be constructed prior to occupancy of the use, to accommodate the use.
- f. If parking is proposed to be reduced for shared uses, a parking study, completed by a qualified traffic engineer or parking professional, utilizing recognized sources of data.

When found complete by the Planning Department, a meeting for the Major Architectural Application shall be held within 30 days by the Architectural Advisory Committee, and a public meeting shall be scheduled, within 45 days, before the Planning Commission. Such review shall include any evaluation required under the California Environmental Quality Act (CEQA). The Commission, upon closing the public hearing, shall:

1. Request changes to the application and continue the matter; or
2. Approve the project, including the addition or modification of project conditions; or
3. Deny the project.

Actions of the Commission can be appealed to the City Council. The decision of the City Council shall be final.

Applications for Conditional Use Permits and subdivisions, not involving construction of new structures and only the use in question, shall be processed consistent with the provisions of Section 94.020.00 et. seq. of the Palm Springs Zoning Ordinance.

Planned Development Permits, if required, will be processed consistent with the requirements of Section 94.30.00 et. seq. of the Palm Springs Zoning Ordinance.

2. **Conformity Review Procedure.**

In accordance with the provisions of Subsection C (Phasing) of this Section V, Phase One of the Specific Plan's implementation includes the opportunity for any property owner within the specific plan boundary area to request a "Conformity Review". Conformity Review is a determination that a proposed project consisting of the rehabilitation, renovation, and/or remodel of existing buildings and facilities (a "Renovation Project") within the Specific Plan is generally consistent with the Specific Plan.

- a. The property owner shall fully complete and file a request for Conformity Review describing the proposed project and identifying the rehabilitation, renovation, and remodel components and file such other information as the Planning Director may require. The filing may be schematic and conceptual; precise plans or drawings shall not be required unless the submission is processed concurrently with an entitlement provided under the City's Zoning Ordinance. The filing and processing fees, if any, shall be assessed according to the City's resolution of fees and charges.
- b. The Planning Director shall consider the request for Conformity Review and shall prepare written findings and recommendations to the City Council. The request for Conformity Review shall be considered by the City Council at a noticed public hearing pursuant Government Code section 6061. The City Council shall approve, conditionally approve, or deny the request. The decision of the Council is final.

- c. In the review and consideration of the Conformity Request, the City Council shall consider whether the proposal reasonably furthers the goals or objectives of the Specific Plan, including without limitation Subsection C of this Section V.

B. Specific Plan Amendments

Interpretations of this Specific Plan which may be needed to clarify standards, guidelines, or the definitions of permitted uses, or may be otherwise required, and which do not change development standards, guidelines or permitted uses in this Specific Plan may be made by the Director of Planning Services.

All other changes shall be considered amendments to this Specific Plan, and shall be subject to public hearing and review by the Planning Commission and City Council.

C. Phasing

In response to market conditions, implementation of the Museum Market Plaza is expected to begin with the renovation of the existing Desert Fashion Plaza Shopping Center (Phase One). The current placement of buildings, parking, and pathways at the Center may be the basis for renovation in this first phase. This phase is not required to implement certain elements of the Plan intended for subsequent phases, including the full street grid system, the removal of the existing underground parking garage, and the provision of open space within Block B. Renovation of all or a significant portion of the existing Desert Fashion Plaza Shopping Center which preserves opportunities for enhancing the connection between the Museum and the Casino/Convention Center area shall be deemed consistent with the Specific Plan. Nothing herein shall be construed as allowing or permitting any deviation from the maximum height or density requirements of the Specific Plan.

A renovation plan that is consistent with the Specific Plan's Phase One policy is the Wessman Company's proposal submitted to the City on January 13, 2009 ("Wessman Renovation Plan"), including any changes or revisions identified in the written comments of the Director of Planning Services, dated February 17, 2009.

The City specifically finds that the Wessman Renovation Plan is consistent with the Specific Plan and furthers the objectives of the Specific Plan in that the Wessman Renovation Plan will:

- a. Renovate a significant portion of the existing Desert Fashion Plaza Shopping Center for retail, office and resort uses, as provided in the Specific Plan,
- b. Facilitate the development of an east/west connection through the site to the Museum which does not currently exist, thereby contributing to the Specific Plan's goal of restoring the visual presence for the Museum that has been lacking since the construction of the Desert Fashion Plaza and creating the opportunity for direct access between the Museum and the Casino/Convention Center area,

- c. Create, within the new east/west connection, areas for outdoor dining and other pedestrian oriented activities to draw customers to the Center and give energy to the downtown area,
- d. Create, with the addition of the east/west connection, additional retail spaces with lively street frontages on the ground floor that do not exist within the current Desert Fashion Plaza,
- e. Provide new opportunities for high quality retail development which will contribute to realizing the Specific Plan's goal of helping to create a stable and varied economy, increase the City's tax base and act as a catalyst for further redevelopment in downtown, and
- f. Achieve the Specific Plan goal of expanding recreational uses in the downtown which extend the hours of active use in the area, by adding a theater and additional restaurants.

Subsequent phasing of the Museum Market Plaza will be determined by the market. Exhibit V-1 illustrates how phasing may occur at the site, subsequent to any renovation project as allowed above (Conformity Review). Phasing may be modified by market pressures, including changes in both the commercial and residential environments:

- Phase Two: Construction of the Main Plaza, the installation of the new east-west roadway from the Museum to Palm Canyon Drive, the extension of Belardo through the site, and improvements to Palm Canyon Drive.
- Phase Three: Blocks A and C, focusing on the Main Plaza and Palm Canyon frontage. This phase may also include the southern portion of Block E, G & H.
- Phase Four: D & F, and the northern portion of Block E, G & H.
- Phase Five: Block K, including the new east-west street between Palm Canyon and Indian Canyon Drives; however, this block and / or the new east-west street may be developed in an earlier phase, if the market allows.

Exhibit V-1 Phasing

(INSERT PHASING PLAN)

D. Financing

Although the Specific Plan occurs in an area in which infrastructure is generally complete, improvements and alterations will be required throughout the development of Museum Market Plaza, to allow for the intensity of use proposed and to adjust public improvements along the boundaries and edges of the Specific Plan area. Financing for these improvements is likely to come from a number of sources, both public and private. In addition, the costs for the preparation of the Specific Plan can also be recovered. Some of the potential funding mechanisms are described briefly below. This list is not intended to be exhaustive or exclusive. The allocation of costs and the apportionment of fees pursuant to the provisions of this Subsection, including without limitation a credit on fees, may be provided in an owner's participation agreement or disposition and development agreement (DDA) between a developer and the City of Palm Springs Redevelopment Agency or a development agreement (DA) between a developer and the City.

Specific Plan Fee

To defray the cost of preparation, adoption, and administration of the specific plan, including all related studies and environmental documentation, the City Council should consider the adoption of a fee to be imposed upon all persons seeking approvals of the City or the Redevelopment Agency of the City of Palm Springs which are required to be consistent with the specific plan in the manner provided under Government Code Section 65456. A portion of any amounts collected pursuant to such fee shall be used to reimburse any person who advanced or incurred costs for the preparation of the specific plan in excess of such person's fair share of such costs as determined under the provisions of Government Code Section 65456.

Special Improvement Districts

Special Improvement or Assessment Districts may be initiated subject to the approval of property owners or voters. They allow the municipality to issue tax-exempt bonds for public infrastructure improvements. Assessments are generally accompanied by a formal lien against each property which receives the improvements. Those properties benefiting from the improvement are assessed an annual cost on their tax bill. Assessments are proportional to the amount of benefit being received by the property owner. The assessments are generally paid over up to 30 years, but may be prepaid.

Redevelopment Agency Participation

The Museum Market Plaza is the catalyst to the long term economic health of Downtown Palm Springs. The area is also within the boundaries of the City's Redevelopment Plan. As such, developers and builders may negotiate with the Redevelopment Agency for direct contributions, tax rebates or other participation from the Agency's tax increment funds.

Developer Impact Fees

Developer impact fees can be used for a variety of improvements, and require the preparation of cost estimates and fair share distribution based on a "rational nexus" that the fee being paid is equivalent to the cost which would otherwise be incurred by the developer to provide his fair

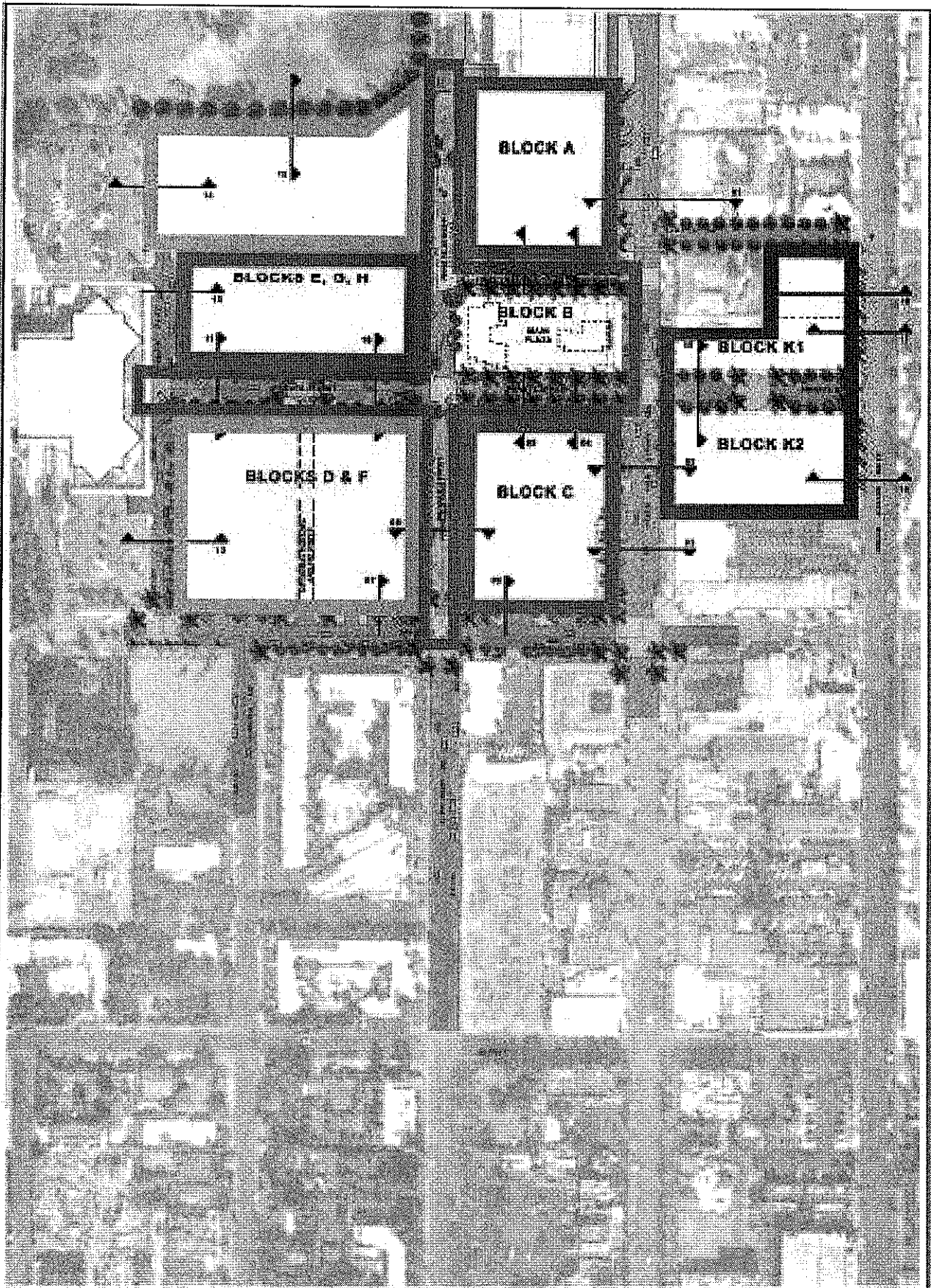
share of an improvement. Existing Impact Fees may be applicable to roadway improvements on Palm Canyon or Indian Canyon, or could be created to address the project's improvements. Conversely, most of the development within the Specific Plan area has in the past contributed to Development Impact Fee and TUMF fees, which may be credited to the Museum Market Plaza construction.

Landscaping and Lighting Districts

Landscaping and Lighting Districts may be created to provide a range of infrastructure improvements. Annual assessment would be raised from properties in the district. Funds may be used for construction and maintenance of curbs, gutters, sidewalks, paving, parkway landscaping and other facilities. The long-term maintenance of the Specific Plan area's street system could be financed through this vehicle.

Mello-Roos Districts

Mello-Roos districts can be used to finance a wide range of improvements, including land purchases and maintenance. The creation of the district results in a special tax levied on the affected property owners. Mello-Roos district taxes are not tied to property value, but rather to a special tax formula based on the level of benefit received by each property.



- Phase I
- Phase III
- Phase II
- Phase IV



DATE: 08/14/88

Source: Nelson Properties and the City of
TUSD Association, Incorporated

Mesa Market Plaza Draft Specific Plan
 Financing Plan
 Palm Springs, California

Sheet

V-1

Schedule of Performance – Exhibit D

Project Financing Agreement

No.	Milestone	Comment	Days for Performance	Anticipated Date based on days to perform, any delay by the city for approvals adjusts each date automatically forward
1	<u>Approval of PFA.</u> City approves or disapproves PFA and, if approves, executes PFA	PFA approved September 7 subject to minor changes		September 26 2011
2	<u>Detailed Physical Evaluation of the Property.</u> The City shall retain structural engineer to obtain a detailed structural inspection of the parking structure.		1	September 26 2011
3	<u>Title Report.</u> Developer delivers to City Preliminary Title Report.			September 30 2011
4	<u>Approval or Disapproval of Title Exceptions.</u> City approves or disapproves title exceptions.	Within 15 days after delivery of Preliminary Title Report from Developer.	15	
5	<u>Structural Engineer.</u> City completes detailed structural inspection of the parking structure to determine if estimated cost of improvements is excessive.	Within 30 days after hiring structural engineer	30	
6	<u>Opening of Escrow.</u> The City and Developer open escrow for conveyance of the parking structure and other public assets to the City.			Dec 12 th 2011
7	<u>Right to Terminate.</u> City waives its right to terminate Agreement based on inability to identify source of public financing	Per PFA.		December 21 2011
8	<u>Reimbursement Agreement.</u> City staff recommends to Council to provide additional funds for first phase design work; Any additional payments will be reimbursed to the city upon the close of the future private / public improvement escrow	If not approved all time lines from milestone 9a on adjust forward in sequence to the date when the private and public improvement escrow closes		December 28 2011

[Handwritten Signature]

9a	Private Improvement Development Plans. Developer contracts with architectural firm and other necessary sub consultants to produce Major Architectural Application Plan sufficient to comply with Milestone No. 18a, submittal of plans.	Within 40 days City approved funding first phase of design work, otherwise 9a adjusts forward to milestone 17		January 30 2012
9b	Public Improvement Development Plans. Developer contracts with engineering firms and other necessary sub consultants.			March 30th 2012
10	Bank of America Demolition. Developer commences demolition of Bank of America building (after Film Festival 2012 ends) and the installation of basic site landscaping. Upon pulling demo permit (no later than Jan 21 st 2012) complete demo of Bank of America within 60 days	Developer to apply for demolition permit after December 21 but prior to Jan 21	60	Major Milestone March 21 st 2012
11	Funds Control Agent. City and Developer contract with a mutually acceptable and reputable independent fund control agent ("IFC Agent")			April 2, 2012
12	Sewer Connections. City and Developer undertake comprehensive site review to determine number and location of sewer connections to determine credit for sewer connection charges in building permit fees.	December 22 nd – 2013 June 30 th 2012		June 30 2013
13	Deposit of Grant Deed. The Developer shall deposit the grant deed for the Parking Structure and City Parcels into escrow.	One (1) week prior to Closing.		April 8, 2012
14	Deposit of Purchase Price and Other Required Sums. The City shall deposit the Purchase Price of the Parking Structure and other public assets, funds for the public improvements and other required sums into escrow.	One (1) week prior to Closing.		April 8, 2012
15	Escrow Fees and Charges. Escrow Agent gives notice of fees, charges, and costs to close Escrow.	Three (3) days prior to Closing.		April 11, 2012
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17	Close of Escrow. The Developer shall convey fee title to the Parking Structure and other public assets to the City and the City shall accept such conveyance. The Escrow Agent shall cause the Grant Deed and Easement for Access (and other related documents) to be recorded with the Riverside County Recorder.			April 15, 2012
18a	Application Submission. Major Architectural Approval Application for the first building on one of the following: Blocks A-1, A-2, C and F or adjacent street grid.			Major Milestone June 1 st 2012
19a	Approval by City. Major Architectural Approval. Architectural Advisory, Planning Commission, and City Council approval of submittal from milestone 18a.	Within 45 days from date of submission of architectural application of the first building.	45	
18b	Plan Submission Public Improvements; Major architectural application including site plan and street improvements			Major Milestone Dec 28 th 2012
19b	Approval by City Council. Public Improvements - The City process includes the Architectural Advisory Committee, Planning Commission, and City Council approval.	Within 45 days from date of submission of architectural application.	45	
18c	Application Submission. Major Architectural Approval Application for the remaining building of the following: Blocks A-1, A-2, C and F			Major Milestone Oct 31 st 2012
19c	Approval by City Council. Major Architectural Approval of remaining buildings A1, A2, C or F. The City process submitted Architectural Advisory Committee, Planning Commission, and City Council approval.	Within 45 days from submission of architectural application of remaining buildings.	45	

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18 d	Application Submission Major Architectural Approval for hardscape and landscape plans; <i>includes the Architectural Advisory Committee, Planning Commission, and City Council approval</i>			Major Milestone Feb 28th 2013
19d	Approval by City Council. Landscape and hardscape- The City process <i>includes the Architectural Advisory Committee, Planning Commission, and City Council approval.</i> application shall include final Site	Within 45 days from submission of architectural application.	45	
20a	Submittal of Construction Documents. Developer submits Construction (Building and Engineer) Plans for approval by Building and Engineering Departments (Milestone 19 a)			May 31, 2013
21 a	City to finalize Plan Check of submitted Construction Documents milestone 20 a documents	Plan Check completed within 60 days of submittal to the Building department	60	
22	Developer to deposit \$ 2 million and City to issue Building Permit for the first building on one of the following: Blocks A-1, A-2, C and F or adjacent street grid.			Major Milestone Aug 30th 2013
23a	Commence Demolition of Existing Improvements. Developer commences demolition of remaining site improvements in preparation for construction of public and private improvements. Portions of Block C will be demolished last, because of CPK Lease)			As early as July 26th 2013
23b	Commencement of Construction of Developer's Improvements. Developer commences construction of public and private Improvements.			Major Milestone Sep 30th , 2013
20 b	Submittal of all of remaining Construction Documents. Developer submits Construction (Building and Engineering) Plans and Grading Plan for approval by Building and Engineering Departments for the remaining buildings Blocks A-1, A-2, C and F or adjacent street grid, hardscape and landscaping plans	Contingent on meeting milestones 19, a,b		Sep 30th 2013

21 b	City to finalize Plan Check of Construction Documents and issue Building Permit for the remaining buildings (see 20 b) of the following: Blocks A-1, A-2, C and F or adjacent street grid, hardscape and landscape plans	Plan Check completed within 60 days of submittal to the Building and Engineering department	60	
23c	<u>Substantial Completion of Construction of Developer's Core & Shell and public improvements.</u> Developer substantially completes Core & Shell Improvements, parking improvement upgrades, public streets and sidewalks, open space plazas.			Major Milestone December 28th, 2014
24	City to certify substantial completion of all private and public improvements after Developer has notified it in writing and release and reconvey in full the Performance Deed of Trust (regardless of any outstanding balance) – within 15 days of notification by Developer		15	January 12 th 2015

MAJOR MILESTONES as defined in the PFA 3.A Developer Default

It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the text of the PFA Agreement. The time periods set forth in this schedule will adjust automatically forward if city approvals are not obtained at the scheduled dates listed above

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Developer and City. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The City Manager shall have the authority to approve extensions of time without City Council action not to exceed a cumulative total of 180 days.

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