



CITY COUNCIL STAFF REPORT

DATE: October 17, 2012

PUBLIC HEARING

SUBJECT: APPROVE AMENDMENT NO. 2 TO THE PROJECT FINANCING AGREEMENT BETWEEN THE CITY AND PALM SPRINGS PROMENADE, LLC; APPROVE AN ADDENDUM TO THE MUSEUM MARKET PLAZA SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT; AND CONDUCT A CONFORMITY REVIEW UNDER SECTION V OF THE MUSEUM MARKET PLAZA SPECIFIC PLAN, FOR THE IMPLEMENTATION OF A REVISED DOWNTOWN REVITALIZATION PLAN ("DOWNTOWN PALM SPRINGS")

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney, and
Craig A. Ewing, AICP, Director of Planning Services

SUMMARY

In response to the on-going preparations to redevelop the Desert Fashion Plaza site, staff has determined that certain actions are appropriate related to the Project Financing Agreement and the anticipated entitlements which are to be applied for in the next few weeks:

- Amend the Project Financing Agreement to...;
- Adopt an Addendum to the Museum Market Plaza Specific Plan EIR based on the latest site and development plans; and
- Conduct a Conformity Review of the latest site and development plans, as allowed by Section V of the Museum Market Plaza Specific Plan.

Each of these items are discussed below, with recommended resolutions and related documents attached to this report. A public hearing is required for the Conformity Review.

RECOMMENDATION:

Adopt Resolution No. ____ "A Resolution of the City Council of the City of Palm Springs, California, approving Amendment No. 2 to the Project Financing Agreement between the City and Palm Springs Promenade, LLC; approving an Addendum to the Museum Market Plaza Specific Plan Environmental Impact Report; and identifying the implementation of a revised downtown revitalization plan ("Downtown Palm Springs") as conforming to the Museum Market Plaza Specific Plan, for 13.2 Acres located at the northwest corner of Tahquitz Canyon Way and North Palm Canyon Drive"

ITEM NO. 1A

as conforming to the Museum Market Plaza Specific Plan, for 13.2 Acres located at the northwest corner of Tahquitz Canyon Way and North Palm Canyon Drive"

BACKGROUND

- On December 2, 2009, the City Council adopted the Museum Market Plaza Specific Plan and associated Environmental Impact Report and related documents.
- Concurrently with the adoption of the Museum Market Plaza Specific Plan, the City Council conducted a Conformity Review under the draft Museum Market Plaza Specific Plan and determined that a proposed plan for revitalization of the Desert Fashion Plaza conformed to the Specific Plan. No subsequent project application has been submitted.
- On September 7, 2011, the City Council approved a Project Financing Agreement between the City of Palm Springs and Palm Springs Promenade, LLC for the redevelopment of the Desert Fashion Plaza site.

ANALYSIS

Amendment to the Project Financing Agreement

The proposed Second Amendment to the Project Financing Agreement recognizes that the plans for the project area have evolved and that modifications, consistent with the provisions of the adopted Museum Market Plaza Specific Plan, should be incorporated within the project plan. These modifications involve the inclusion of a Kimpton brand hotel of 170+/- rooms, a first class hotel, at the southwest corner of Belardo and Tahquitz, the provision for an "Event Area" west of Belardo, and reconstruction of the two city lots east of N. Museum Drive, west of the Palm Springs Art Museum. Appropriate amendments consistent with these revisions are also proposed for the Site Plan of the project and the Project Description, exhibits to the Project Financing Agreement.

The Hotel will be eligible for assistance under the City's Hotel Incentive Program as a first class hotel if work is commenced before December 31, 2013. If the Developer is unable to meet the requirements of the Hotel Incentive Program, the Developer will have the ability to extend his obligation to complete construction of an alternative use on hotel site for 18 months, so long as he has been issued building permits for such work by December 31, 2014, the current deadline to complete all work on the rest of the project.

In lieu of a movie theater on Block E, the Developer is proposing that an Event Area be provided for use by both the City and Developer for 10 years. The use arrangements will be worked out between the parties in the future. The Developer will be responsible for making appropriate improvements to the Event Area and the City will be responsible for installing certain event equipment related to the staging of events and performances.

The two City blocks across N. Museum Drive from the Art Museum will be reconstructed by demolishing and removing all current improvements, leveling the site with compacted dirt,

installing new landscaping and related hardscape, and installing other improvements appropriate for completion of the project. The Developer will do the work and the City will reimburse the Developer for his costs less any profit or mark-up for the work.

Approval of Addendum to the Museum Market Plaza Specific Plan EIR

In preparation for the submittal of applications for entitlements for the Downtown Palm Springs project, staff has evaluated the latest preliminary site and development plans against the Museum Market Plaza Specific Plan Environmental Impact Report (EIR). According to the California Environmental Quality Act (CEQA), when new information about a project is provided to the City, it may prepare an "addendum" to the EIR. The addendum may be adopted by the City Council in accordance with CEQA provisions, as long as no new significant impacts or other substantial changes to the environment or mitigation measures are found.

In 2009, the City Council certified an EIR for the Museum Market Plaza Specific Plan; the EIR included an investigation into a variety of potential environmental impacts that might result from implementing the Specific Plan. A number of impacts were identified and mitigation measures were adopted to reduce most of these impacts to "non-significant" levels. However, impacts which could not be mitigated were identified in the topics of aesthetics / visual resources, air quality and cultural resources. In these cases, mitigation measures were adopted, but the impacts remained significant and a Statement of Overriding Consideration was adopted.

Staff has reviewed the latest site and development plans from Palm Springs Promenade, LLC and determined that no new impacts are expected which were not fully analyzed in the Specific Plan EIR, except for aesthetics / visual resources. No new significant, adverse impacts are expected to result on traffic, land use, geology / biology, public services or other topics. However, since the new plan proposes building height and mass in different configurations from the Specific Plan, it was necessary to analyze the new project's visual impacts and prepare an addendum of the aesthetics / visual resources section of the EIR.

The photographic simulations contained in the EIR include eight views across and around the project site. (Three other views were included in the EIR, but these address other sites outside the boundaries of the Downtown Palm Springs project and are excluded.) The new project's proposed buildings, including their maximum height and mass were simulated into the photographs and staff compared these new photo-simulations with those from the EIR (see attached draft EIR Addendum, including photo-simulation comparisons).

Based on an analysis of each photo and the cumulative impacts of all eight views, staff has concluded that no additional adverse impact will result from the Downtown Palm Springs project. In many views, the new project significantly improves long-distant mountain views, which are identified as a key visual and environmental resource. Staff believes that the draft EIR addendum with the Specific Plan EIR provides an appropriate and adequate statement of the environmental impacts of the Downtown Palm Springs project. A draft resolution to adopt the EIR Addendum is attached

Conformity Review with the Museum Market Plaza Specific Plan

The developer has requested that the City Council conduct a conformity review of the site and development plans, as allowed by the Museum Market Plaza Specific Plan. Section V.A.2 of the Specific Plan identifies the Conformity Review as a *“determination that a proposed project consisting of the rehabilitation, renovation, and/or remodel of existing buildings and facilities (a “Renovation Project”) with the Specific Plan is general consistent with the Specific Plan”*.

The Specific Plan also directs the Council to *“consider whether the proposal reasonably furthers the goals or objectives of the Specific Plan, including without limitation Subsection C of this Section V.”* (See the full text of the Specific Plan regarding Conformity Review attached to this report.)

Site and development plans submitted by Palm Springs Promenade, LLC Show that most of the buildings of the Desert Fashion Plaza are to be removed; one building and the parking structures (including underground parking) are to be retained. New public and private streets are proposed to establish blocks for new retail commercial buildings, a hotel, an outdoor entertainment venue and future development.

The proposal may be seen as a renovation of the existing mall because of the retention of a building and the existing parking facilities. These significant existing facilities provide a basis for evaluating the proposal as a “renovation project” as defined by the Specific Plan. The proposal may also be seen as a further variation of the plan determined by the City Council in 2009 to be conforming to the Specific Plan.

The Specific Plan does not contain a section identified as “Goals and Objectives”, however, it provides an equivalent statement within its project description in the form of Guiding Principles:

1. *The highest quality development which provides an exciting and safe living, working and shopping experience for all.*
2. *The creation of a pedestrian and vehicular connection from the Palm Springs Art Museum, through Palm Canyon and Indian Canyon Drives, to the Resort/Convention Center District.*
3. *The development of retail commercial development which successfully mixes national and regional chain stores with local businesses, focused on the major roadways which bound the site, including North Palm Canyon, Indian Canyon, Tahquitz Canyon and Belardo.*
4. *A balance of commercial and residential development which assures the success of the area by increasing the number of homes in the downtown, thereby increasing the customer base of the commercial uses.*
5. *The development of residential units which relate synergistically to the commercial development around them, and encourage a pedestrian lifestyle with little use for the automobile.*
6. *The development of additional resort hotels which provide luxury accommodations and increase the visitors to the City’s downtown.*

The Conformity Review will be achieved by evaluating the proposed site and development plans against the above Specific Plan principles, and staff has provided the following analysis for City Council consideration:

1. *The highest quality development which provides an exciting and safe living, working and shopping experience for all.*
The project provides vehicle and pedestrian access via the grid of public and private streets that allows "safe discovery" of the shopping, dining, lodging and entertainment facilities, both within the project and in the vicinity. The small blocks created by the street grid offer a comfortable and secure urban scale, while the low-rise buildings proposed along street fronts match the small blocks with an appropriate vertical scale. The single tall hotel building proposed in Block C offers an urban landmark among the surrounding low-rise buildings. The outdoor entertainment venue creates opportunities to energize the area with concerts and other special events.
2. *The creation of a pedestrian and vehicular connection from the Palm Springs Art Museum, through Palm Canyon and Indian Canyon Drives, to the Resort/Convention Center District.*
The project does not extend east of Palm Canyon Drive, but within the project's boundaries the pedestrian and vehicular connection from the Palm Springs Art Museum to Palm Canyon (between Blocks B and C, E and F, and H-1 and H-2) is clearly established.
3. *The development of retail commercial development which successfully mixes national and regional chain stores with local businesses, focused on the major roadways which bound the site, including North Palm Canyon, Indian Canyon, Tahquitz Canyon and Belardo.*
Within the project boundaries, buildings are proposed along Tahquitz Canyon Way, North Palm Canyon Drive and Belardo Road (Blocks A, B and C) to house a diverse array of retail and restaurant tenants. While specific tenants are not known at this time, the development provides for a mix of national and regional chains, as well as local businesses, which can be expected to modify and adjust over time to achieve long-term success.
4. *A balance of commercial and residential development which assures the success of the area by increasing the number of homes in the downtown, thereby increasing the customer base of the commercial uses.*
No residential development, except the 170-room hotel, is proposed at this time. However, future development west of Belardo Road (including Blocks D, F and G) may include permanent multiple family residences. The balance of commercial and residential development will be best served by the proposal to have commercial development nearest N. Palm Canyon Drive with residential development in the more westerly portion of the site.

5. *The development of residential units which relate synergistically to the commercial development around them, and encourage a pedestrian lifestyle with little use for the automobile.*

Residential development is not presently proposed on the easterly half of the site (between Belardo Road and Palm Canyon Drive), except for the hotel. However, future residential development within the site (including Blocks D, F and G) will encourage a pedestrian lifestyle for those residents with little use for the automobile.

6. *The development of additional resort hotels which provide luxury accommodations and increase the visitors to the City's downtown.*

A four-star hotel is proposed in the plan (Block C) to provide luxury accommodations and increase the number of visitors to the City's downtown. The hotel promises the potential for 24-hour and year-round activity within the project.

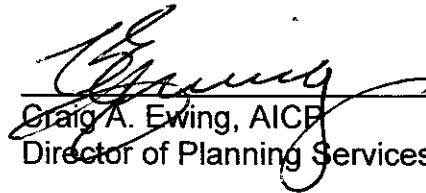
Based on the above analysis, staff believes the City Council may find that the proposed site and development plans reasonably further the guiding principles ("goals and objectives") of the Museum Market Plaza Specific Plan.

CONCLUSION


A draft resolution has been prepared from the above recommendations, and is attached to this report for Council consideration.



Douglas Holland
City Attorney



Craig A. Ewing, AICP
Director of Planning Services



David H. Ready, City Manager

Attachments:

1. Draft Resolution
2. Draft Amendment No. 2, Project Financing Agreement
3. Draft Addendum to the Museum Market Plaza EIR

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE PROJECT FINANCING AGREEMENT BETWEEN THE CITY AND PALM SPRINGS PROMENADE, LLC; APPROVING AN ADDENDUM TO THE MUSEUM MARKET PLAZA SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT; AND IDENTIFYING THE IMPLEMENTATION OF A REVISED DOWNTOWN REVITALIZATION PLAN (“DOWNTOWN PALM SPRINGS”) AS CONFORMING TO THE MUSEUM MARKET PLAZA SPECIFIC PLAN, FOR 13.2 ACRES LOCATED AT THE NORTHWEST CORNER OF TAHQUITZ CANYON WAY AND NORTH PALM CANYON DRIVE

WHEREAS, on December 2, 2009, the City Council certified a Final Environmental Impact Report; adopted CEQA Findings and Statement of Facts, a Statement of Overriding Considerations and a Mitigation Monitoring Program; and enacted by ordinance and resolution the Museum Market Plaza Specific Plan (“Specific Plan”); and

WHEREAS, on September 7, 2011, the City Council approved a Project Financing Agreement (“Agreement”) between the City of Palm Springs and Palm Springs Promenade, LLC for the renovation and redevelopment of the Desert Fashion Plaza site within the boundaries of the Specific Plan; and

WHEREAS, on October 3, 2012, Palm Springs Promenade LLC presented to the City Council certain site and development plans as a revised renovation project for 13.2 acres within the boundaries of the Specific Plan and subsequently requested a conformity review of the plan in accordance with Section 5.A.2 of the Specific Plan; and

WHEREAS, the revised renovation project was evaluated to determine if the site and development plans might result in environmental impacts not adequately analyzed in the Specific Plan EIR; and

WHEREAS, the City concluded that an Addendum to the Museum Market Plaza Specific Plan EIR, as prepared under the provisions of CEQA, would adequately address the potential project impacts, including impacts on aesthetics / visual resources; and

WHEREAS, Section 5.A.2 of the Museum Market Plaza Specific Plan allows for the review of any renovation project for conformity with the Specific Plan’s goals and objectives, subject to a public hearing, with notice provided in accordance with Government Code Section 6061; and

WHEREAS, on October 17, 2012, following a notice published in accordance with Government Code Section 6061, the City Council conducted a public hearing, at which hearing the Council received all testimony, including staff reports, draft documents, and all oral and written public comments.

NOW, THEREFORE, the City Council of the City of Palm Springs resolves:

SECTION 1. The Second Amendment to the Project Financing Agreement is approved and the City Manager is authorized to execute the Second Amendment in a final form approved by the City Attorney.

SECTION 2. The City Council certifies that the Addendum to the Museum Market Plaza Specific Plan EIR has been completed in compliance with CEQA, that the Addendum was presented to the City Council as the decision-making body, and that the City Council reviewed and considered the information contained in the Addendum prior to approving any aspect of the Project. Preparation of the Addendum has been overseen by the City's Director of Planning and/or his representative, and the conclusions and recommendations in the document represent the independent conclusions and recommendations of the City. The Addendum represents the independent judgment and analysis of the City. By these findings, the City Council confirms, ratifies, and adopts the findings and conclusions of the Addendum, as presented. The City Council further certifies that the certified Specific Plan EIR and the Addendum together are adequate to support approval of each component of the proposed Downtown Palm Springs project, and any minor modifications to the project. The City Council also certifies that the Specific Plan EIR and Addendum together are adequate to support any future discretionary approvals needed to implement the Downtown Palm Springs project.

SECTION 3. The City Council, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project, has determined that the unavoidable adverse environmental impacts identified in the EIR and Addendum "A" may be considered "acceptable" due to specific considerations which outweigh the unavoidable, adverse environmental impacts of the proposed project. The City Council therefore ratifies and adopts the "Statement of Overriding Considerations" as approved by the City Council in the approval of the Final Environmental Impact Report for the Museum Market Plaza Specific Plan adopted on December 2, 2009. Each of the separate benefits of the proposed project, as provided in the Statement of Overriding Considerations, is determined to be, unto itself and independent of the other project benefits, a basis for overriding all unavoidable adverse environmental impacts identified in the Statement of Overriding Considerations.

SECTION 4. The City Council finds, ratifies, and adopts the Mitigation Monitoring Program, incorporated into the Final Environmental Impact Report for the Museum Market Plaza Specific Plan adopted on December 2, 2009. The City Council further finds that such Mitigation Monitoring Program meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of measures intended to mitigate potential environmental impacts. In the event of any inconsistencies between the Mitigation Measures as set forth in the EIR and the Mitigation Monitoring and Reporting Plan, the Mitigation Monitoring and Reporting Plan shall control.

SECTION 5. The City Council finds and determines that the revised renovation plan comprised of the site and development plans for Downtown Palm Springs submitted

October 3, 2012 does hereby conform to the goals and objectives ("guiding principles") of the Museum Market Plaza Specific Plan, as follows:

1. *The highest quality development which provides an exciting and safe living, working and shopping experience for all.*
The project provides vehicle and pedestrian access via the grid of public and private streets that allows "safe discovery" of the shopping, dining, lodging and entertainment facilities, both within the project and in the vicinity. The small blocks created by the street grid offer a comfortable and secure urban scale, while the low-rise buildings proposed along street fronts match the small blocks with an appropriate vertical scale. The single tall hotel building proposed in Block C offers an urban landmark among the surrounding low-rise buildings. The outdoor entertainment venue creates opportunities to energize the area with concerts and other special events.
2. *The creation of a pedestrian and vehicular connection from the Palm Springs Art Museum, through Palm Canyon and Indian Canyon Drives, to the Resort/Convention Center District.*
The project does not extend east of Palm Canyon Drive, but within the project's boundaries the pedestrian and vehicular connection from the Palm Springs Art Museum to Palm Canyon (between Blocks B and C, E and F, and H-1 and H-2) is clearly established.
3. *The development of retail commercial development which successfully mixes national and regional chain stores with local businesses, focused on the major roadways which bound the site, including North Palm Canyon, Indian Canyon, Tahquitz Canyon and Belardo.*
Within the project boundaries, buildings are proposed along Tahquitz Canyon Way, North Palm Canyon Drive and Belardo Road (Blocks A, B and C) to house a diverse array of retail and restaurant tenants. While specific tenants are not known at this time, the development provides for a mix of national and regional chains, as well as local businesses, which can be expected to modify and adjust over time to achieve long-term success.
4. *A balance of commercial and residential development which assures the success of the area by increasing the number of homes in the downtown, thereby increasing the customer base of the commercial uses.*
No residential development, except the 170-room hotel, is proposed at this time. However, future development west of Belardo Road (including Blocks D, F and G) may include permanent multiple family residences. The balance of commercial and residential development will be best served by the proposal to have commercial development nearest N. Palm Canyon Drive with residential development in the more westerly portion of the site.

5. *The development of residential units which relate synergistically to the commercial development around them, and encourage a pedestrian lifestyle with little use for the automobile.*

Residential development is not presently proposed on the easterly half of the site (between Belardo Road and Palm Canyon Drive), except for the hotel. However, future residential development within the site (including Blocks D, F and G) will encourage a pedestrian lifestyle for those residents with little use for the automobile.

6. *The development of additional resort hotels which provide luxury accommodations and increase the visitors to the City's downtown.*

A four-star hotel is proposed in the plan (Block C) to provide luxury accommodations and increase the number of visitors to the City's downtown. The hotel promises the potential for 24-hour and year-round activity within the project.

PASSED, APPROVED, and ADOPTED this 17th day of October, 2012.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

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

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. ____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on July 22, 2009, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

SECOND AMENDMENT TO PFA

This SECOND AMENDMENT TO PFA (“Amendment”), made effective as of the date fully executed, is by and between the City of Palm Springs, a California municipal corporation and charter city (“City”), and Palm Springs Promenade, LLC, a California limited liability company (“Developer”), with reference to the following:

RECITALS

A. PFA. On or about September 29, 2011, the City and Developer entered into a Project Financing Agreement (“PFA”), which related to financing, development, redevelopment, creation, and refurbishment of Public and Private Improvements in the DFP Area of downtown Palm Springs. The PFA, and all documents attached to and/or executed pursuant to the PFA, are incorporated herein by reference as though set forth in full, and all defined terms therein shall, unless otherwise indicated, have the same meanings herein.

B. Progress to Date. Subsequent to entry into the PFA, substantial progress has been made toward applicable goals and objectives set forth therein. Among other things, the Acquisition Escrow has closed and the City has acquired title to the Public Assets, the Bank of America building has been demolished, and Developer has nearly finalized information and documentation sufficient to submit a tentative tract map and major architectural application to the City.

C. Proposed Modifications. Experience gained in connection with progress to date has lead the parties to recognize that plans for development and redevelopment of the DFP Area will evolve and change over time as negotiations and discussions with potential tenants, end users and design consultants occur and take place. By this Amendment, the parties desire to approve proposed modifications to date, and acknowledge and agree that pursuit of the Project requires flexibility and future adjustments, changes and/or refinements will occur and be incorporated as the process continues.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Updated Site Plan. The original Project Site Plan (attached to the PFA as Exhibit A) is hereby replaced and superseded by the Updated Site Plan attached hereto as Exhibit “P”. In the Updated Site Plan, certain Blocks have been re-designated, as follows: (a) former Block A-1 has been re-designated as Block A; (b) former Block A-2 has been re-designated as Block B and divided into b and b-1; (c) former Block C has been divided into blocks c and c-1; (d) former Block E has been re-designated as Block F; and (e) former Block F has been re-designated as Block E. As of the effective date of this Amendment, Block designations and references in the PFA, and in any and all documents attached to and/or executed pursuant to the PFA, shall be deemed changed as indicated in

the Updated Site Plan, and herein. In addition, the parties approve proposed additional and/or alternative development and/or land uses as indicated on the Updated Site Plan.

2. Updates to Project Description. The original Project Description (attached to the PFA as Exhibit B) is amended and superseded to the extent provided in the Updates to Project Description attached hereto as Exhibit "II".

3. Event Area on Block F. The parties approve development and use of Block F as an Event Area for a period of ten years from the effective date of this Amendment. Developer will retain ownership of the Event Area, but City shall have an irrevocable right and license, for and during said ten year period, to use the Event Area for scheduling, holding, staging, allowing and/or conducting special events (and ancillary, related, and incidental purposes). Developer will have similar rights, provided they do not conflict with events and/or activities previously scheduled by City. City and Developer will cooperate with each other in use reasonable and good faith to avoid conflicts. Developer shall have full possession and control of the site, except when City is using it for event purposes. City shall provide reasonable (not less than 48 hours) advance notice to Developer as to when and for what purposes City will, from time to time, desire use of the site. Developer shall pay all costs to get the site in a condition to receive event equipment as designated by City, and City shall pay all costs of acquiring and installing such equipment. (For the purpose of this Amendment, the phrase "to get the site in a condition to receive event equipment" includes but is not limited to installation of all hardscape, landscape, perimeter and ancillary lighting, security systems, irrigation systems, access improvements and electrical, sewer, and audio-visual infrastructure; and the phrase "event equipment" means the installation of sound, lighting, projection, and special effects systems to be used in conjunction with the staging of events and performances.) During the ten year term, Developer shall maintain the site (but not the equipment) and advance and pay all costs reasonably incurred in connection therewith and the City will pay all costs to maintain the event equipment in a first class condition. The Parties will meet and confer in good faith as provided herein on a plan for the equitable sharing of the maintenance costs required pursuant to this Agreement. Each party will be responsible for obtaining insurance or self insurance coverage sufficient to protect its own interests. During said ten year period, Block F will be used only as an Event Area. Thereafter, Developer may, subject to receipt of normal City approvals, develop and use Block F for any purposes authorized by the Museum Market Plaza Specific Plan ("Specific Plan").

4. Proposed Hotel in Block c-1. Consistent with the provisions of the Specific Plan, Developer may pursue development and operation of a 170+/- room first class new hotel in Block c-1. The Parties recognize that such a first class new hotel is eligible for assistance pursuant to Chapter 5.26 (as amended) of the Palm Springs Municipal Code ("Ordinance"). Accordingly, Developer intends to pursue development of the Palomar (or equivalent), a Kimpton Hotel, a high-end first class new hotel pursuant to the Ordinance (as referenced in Section 5.26.040 as amended), and City agrees to fully cooperate in that effort. City acknowledges that City Staff has done a preliminary review of basic plans for the hotel and concluded that, if timely commenced, constructed and

operated as proposed, it will qualify with the provisions of the Ordinance relating to first class new hotels. The parties further acknowledge that obtaining financing will require execution of a formal written agreement that sets forth terms and conditions relative to hotel development and operation, and implementation of the Ordinance in connection therewith. The parties agree that if, despite commercially reasonable efforts by Developer, Developer is unable to meet the requirements of the Ordinance, Developer shall have an additional 6 months, beyond any existing completion deadline, to secure entitlements, including building permits, for an alternative development plan for Block c-1 and an additional 12 months after issuance of building permits to complete such development in a manner authorized by the PFA.

5. Blocks H-1 and H-2 Reconstruction. With respect to the portions of Block H-1 and Block H-2 which do not include subsurface parking facilities, the parties agree that upon receipt of appropriate permits from City, Developer shall, at an additional cost to the City but without any profit or mark-up to Developer, do or cause to be done the following: (i) demolish and remove all existing improvements, i.e., concrete surface areas, walls, pavers, landscaping, etc., (ii) replace such improvements and level the site with compacted fill dirt, (iii) install new landscaping (grass, shrubs, trees, irrigation) and appropriate hardscape, (iv) install (on immediately adjacent areas for the benefit of subsurface parking) a new stairwell and mechanical exhaust ventilation system, as may be required by Code, and (v) install any other improvements as reasonably necessary for the completion of the Project.

6. Confirmation of Status. Each of the parties acknowledges, agrees and confirms that the PFA, and each of the documents attached to and/or executed pursuant to the PFA and approved by the City Council, are in good standing, and that neither party is in any way in default with respect to same.

7. Cooperation. Each party agrees to do and perform such other and further acts, and execute and deliver such other and further documents, as may be necessary, expedient or appropriate to effectuate the intents and/or purposes hereof.

8. Effect of Amendment. To the extent provided and/or contemplated herein, the PFA, and all documents attached to and/or executed pursuant to the PFA, are deemed amended and superseded. Except to the extent provided and/or contemplated herein, the PFA, and all documents attached to and/or executed pursuant to the PFA, shall remain in effect as originally written.

9. Incorporation of Recitals and Exhibits. Each of the recitals set forth herein and each of the Exhibits attached hereto are incorporated by reference and made a part hereof as though set forth in full.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and made it effective as and when specified above.

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

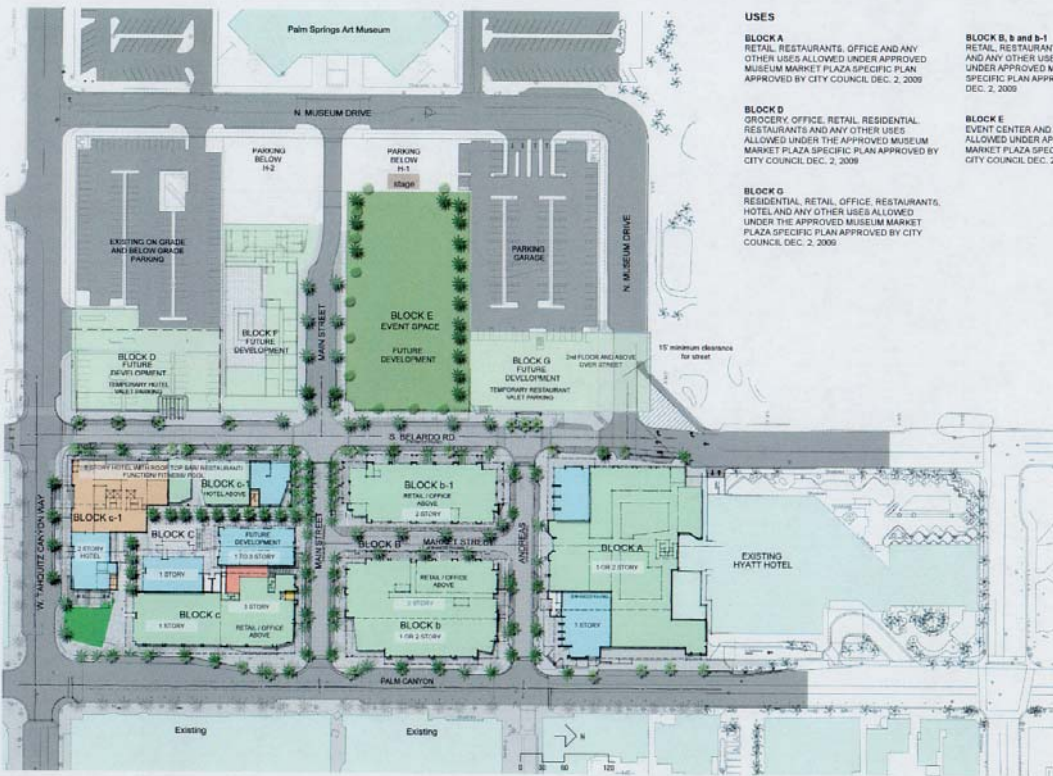
CITY: CITY OF PALM SPRINGS
A California municipal corporation and charter city
By: _____
Title: _____
Dated: _____

ATTEST: _____
City Clerk

**APPROVED AS
TO LEGAL FORM:** _____
City Attorney

EXHIBIT A

SITE PLAN



USES

BLOCK A
RETAIL, RESTAURANTS, OFFICE AND ANY OTHER USES ALLOWED UNDER APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK D
GROCERY, OFFICE, RETAIL, RESIDENTIAL, RESTAURANTS AND ANY OTHER USES ALLOWED UNDER THE APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK G
RESIDENTIAL, RETAIL, OFFICE, RESTAURANTS, HOTEL AND ANY OTHER USES ALLOWED UNDER THE APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK B, b and b-1
RETAIL, RESTAURANTS, OFFICE, RESIDENTIAL AND ANY OTHER USES ALLOWED UNDER APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK E
EVENT CENTER AND ANY OTHER USES ALLOWED UNDER APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK c, e and e-1
PUBLIC RESTROOMS, HOTEL, RESTAURANTS, RETAIL, OFFICE AND OTHER USES ALLOWED UNDER APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

BLOCK F
RETAIL, HOTEL, OFFICE, RESIDENTIAL, RESTAURANTS AND ANY OTHER USES ALLOWED UNDER APPROVED MUSEUM MARKET PLAZA SPECIFIC PLAN APPROVED BY CITY COUNCIL DEC. 2, 2009

**SPECIFIC PLAN
MAX LAND USE INTENSITIES**

PLANNING AREA #1	
RETAIL / RESTAURANT / OFFICE	468,000 SF
HOTEL ROOMS	585 ROOMS
RESIDENTIAL	900 UNITS

PHASE ONE OF PLANNING AREA #1 BLOCKS A-B-C	
RESTAURANT, RETAIL & HOTEL	411,000 SF
HOTEL ROOMS (INCLUDED IN ABOVE S.F.)	170 ROOMS
RESIDENTIAL	(0) UNITS

• ENHANCED PAVING ON BELARDO, MAIN, ANDREAS AND MARKET STREET AS SHOWN

• SHADE CANOPY OVER MARKET STREET

• REMOVABLE BOLLARDS AT THE FOLLOWING INTERSECTIONS

- MAIN STREET & PALM CANYON
- MAIN STREET & BELARDO
- ANDREAS & PALM CANYON
- ANDREAS & BELARDO
- MARKET STREET & MAIN STREET
- MARKET STREET & ANDREAS

DOWNTOWN PALM SPRINGS

WESSMAN DEVELOPMENT

Planned by ALL PARTNERS PROJECTS • INTERIORS: 480-961-0800

MASTERPLAN / SITE PLAN
EXHIBIT I



SCALE: 1:60

2012 10 09

EXHIBIT B
TO
FIRST AMENDMENT TO PFA

UPDATES TO PROJECT DESCRIPTION

As of the effective date of the First Amendment to PFA (“Amendment”) to which this Exhibit “II” is attached, the original Project Description, as set forth on Exhibit “B” attached to the PFA, is amended and superseded as and to the extent provided below.

1. Updated Site Plan. Any reference to Site Plan shall be deemed to refer to the Updated Site Plan (Exhibit “I” attached to the Amendment), and future development and uses within Block areas shall be consistent with designations set forth on the Updated Site Plan.

2. Changed Block Designations. Block designations and references in the Project Description shall be deemed changed as indicated on the Updated Site Plan.

3. Block F. Any reference to a movie theater in Block F shall be deemed deleted, it being understood that pursuant to Section 2 of the Amendment, Block F will be designated for use as an Event Area for a period of ten years, and thereafter may, subject to receipt of normal City approvals, be developed for any purposes authorized by the Specific Plan or PFA.

4. Block A-1. Subject to receipt of normal City approvals, Block A-1 may be developed into a high end boutique hotel of approximately 160 rooms, and related and incidental uses, in general accordance with preliminary height and massing plans submitted to the City.

5. Bollards. Any reference to “electronically operated bollards” shall be deemed changed to refer to “removable bollards”.

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

AMENDMENT NO. 2 TO THE PROJECT FINANCING AGREEMENT BETWEEN THE CITY AND PALM SPRINGS PROMENADE, LLC; AN ADDENDUM TO THE MUSEUM MARKET PLAZA SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT; AND A CONFORMITY REVIEW UNDER SECTION V OF THE MUSEUM MARKET PLAZA SPECIFIC PLAN, FOR THE IMPLEMENTATION OF A REVISED DOWNTOWN REVITALIZATION PLAN ("DOWNTOWN PALM SPRINGS")

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of October 17, 2012. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider Amendment No. 2 to the Project Financing Agreement between the City and Palm Springs Promenade, LLC; approve an Addendum to the Museum Market Plaza Specific Plan Environmental Impact Report; and conduct a Conformity Review under Section V of the Museum Market Plaza Specific Plan, for the implementation of a revised downtown revitalization plan ("Downtown Palm Springs"). The 13.2-acre site is generally located at the northwest corner of North Palm Canyon Drive and Tahquitz Canyon Way.

ENVIRONMENTAL DETERMINATION: A Final Environmental Impact Report (FEIR) was certified in 2009 in accordance with the provisions of the California Environmental Quality Act (CEQA) guidelines. An addendum to the FEIR has been prepared and will be reviewed by the City Council at the hearing. Members of the public may view this document at the Planning Services Department, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs between the hours of 8:00 to 11:00 a.m. and 2:00 to 6:00 p.m. Monday through Thursday and submit written comments at, or prior to, the City Council meeting.

REVIEW OF PROJECT INFORMATION: The Amendment to the Project Finance Agreement and the revised downtown revitalization plan ("Downtown Palm Springs") are also available for public review at City Hall between the hours of 8:00 to 11:00 a.m. and 2:00 to 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

COMMENT ON THIS APPLICATION: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

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

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Craig A. Ewing, AICP, Director of Planning Services at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.


James Thompson, City Clerk 019