



## CITY COUNCIL STAFF REPORT

DATE: OCTOBER 1, 2014

Consent Calendar

SUBJECT: APPROVING AMENDMENT NO. 2 TO A PURCHASE AND SALE AGREEMENT WITH PRAETOR INVESTMENTS, LLC; AND, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENTS

FROM: David H. Ready, City Manager

BY: Community & Economic Development Department

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### SUMMARY

This action is to approve Amendment No. 2 to a Purchase and Sale Agreement with Praetor Investments, LLC (the "Developer") for the 7.8± acre parcel located at Amado Road and Calle Alvarado in Section 14, changing the name of the partnership and extending the date for commencement of construction to April 15, 2015.

### RECOMMENDATION:

1. Approve Agreement No. \_\_\_\_\_ "AMENDMENT NO. 2 TO A PURCHASE AND SALE AGREEMENT WITH PRAETOR INVESTMENTS, LLC;" AND
2. AUTHORIZE THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THE ABOVE AGREEMENTS.

### Background:

In early 2014 Praetor Investments completed the financing for both the equity and the debt requirements for the project. A key component of the financing was that funding would not start until the partnership was able to purchase both parcels of land (the City parcel and the adjacent parcel "72A").

However, both parcels experienced ongoing delays due to the BIA process and issues with the State, which delayed the availability of the City land in late 2013 and early 2014; the State required that the City parcel go through the Long Range Property Management Plan (PMP) process for the former RDA in order to convey the parcel.

ITEM NO. 211

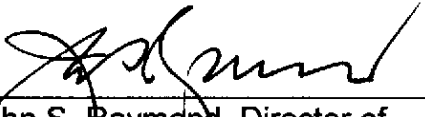
The City was unable to submit the PMP to the State until the former RDA received its "Finding of Completion." The Finding of Completion was held up due to a dispute between the City/RDA over a \$1,500,000 housing loan which had nothing to do with the project. The City made the disputed \$1,500,000 payment to the State in December, and the Finding of Completion was received and the PMP submitted to the State at the end of 2013, with the PMP itself finally approved by the State in March.

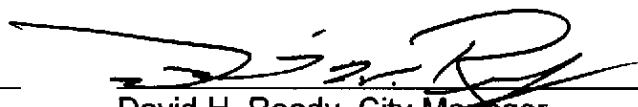
In addition, in May the City was informed that the Tribe would not review the 72A parcel sale until June, since the Tribe has a right of first refusal on the sale of any Indian Trust property. The Tribe "passed" on this sale in June. However, in May, the financing group withdrew their commitment.

With the assistance of the CEO of Dolce, the Developers have engaged several key advisors who have successfully secured capital for similar large projects. The Developer is now fully engaged with one of those parties and is working to produce a firm Letter of Intent (LOI) for the necessary capital within the next 45 to 60 days. The process for converting the LOIs to formal commitments may take up to 90 additional days. Given this, they expect to have their funding in place by year-end, at which time the Developer would close on both parcels of land and move forward with the last pieces of permitting and construction.

The Developer has spent over \$4,000,000 so far on this project on design and other fees, and does not intend to have these funds and effort go to waste.

Today, the 72A transfer documents have been prepared and are in the BIA's Sacramento Regional Office for their approval. The City's parcel became free and clear for purchase mid-August 2014, once another parcel was substituted for it in the Convention Center bond issue. The Developer anticipates closing on the City's parcel in mid-January, 2015 with construction to start a few months later. Their goal is to open in late spring 2016, consistent with prior projections.

  
\_\_\_\_\_  
John S. Raymond, Director of  
Community & Economic Development

  
\_\_\_\_\_  
David H. Ready, City Manager

Attachment:

Amendment No. 2 to a Purchase and Sale Agreement

## AMENDMENT NO. 2 TO PURCHASE AND SALE AGREEMENT (DOLCE)

THIS AMENDMENT NO. 2 TO PURCHASE AND SALE AGREEMENT ("Amendment") is made and entered into this \_\_\_\_\_ day of October, 2014, by and between the City of Palm Springs, a California charter city ("City") and Praetor Investments, LLC, a California limited liability company (the "Developer").

### RECITALS

A. City and Developer entered into a Purchase and Sale Agreement on March 6, 2013 for the purpose of developing and maintaining a Dolce Hotel Project on property owned by the City.

B. Delays in certain performance obligations have occurred as a result of changes in state law and outside of the control of the Parties. This Amendment will modify the affected performance schedule in response to such delays. In addition, the Developer has reorganized as a new legal entity using the project name and the Parties agree that the new entity should be designated as the Developer under the terms of the Purchase and Sale Agreement with all of the rights and responsibilities of the Developer under the terms of the Purchase and Sale Agreement.

C. The Parties also acknowledge that the City requires additional time to construct replacement parking to serve the City's Convention Center and that demolition and construction activities on the City Property should not commence until March 1, 2015 at the earliest.

NOW, THEREFORE, in consideration of the foregoing Recitals and the promises and covenants contained herein below, City and Developer agree as follows:

### AGREEMENT

Section 1. The foregoing Recitals are true and correct.

Section 2. The City and Developer agree that Selene Palm Springs, LLC, a California limited liability company, is hereby acknowledged, designated, and identified as the successor, transferee, conveyee, and/or assignee of all rights, responsibilities, and obligations of Developer under the terms of the Purchase and Sale Agreement. Developer represents that Selene Palm Springs, LLC possesses the qualifications and financial responsibility necessary and adequate, consistent with the provisions of the Purchase and Sale Agreement to fulfill the obligations of Developer under the Purchase and Sale Agreement.

Section 3. Section 7 of the Purchase and Sale Agreement is amended to read:

7. **Purchase Date:** Property shall be purchased prior to the start of construction by Developer but no later than April 15, 2015. Escrow shall be opened no less than thirty (30) days before the anticipated Purchase Date.

Section 4. Section 16 of the Purchase and Sale Agreement is amended to read:

16. Benchmark Schedule:

**Building Permits:** All construction plans and specifications for the Dolce shall be complete and Building Permits necessary for the construction of foundations and the building shell, including without limitation walls and roofs, shall be applied for and obtained prior to commencement of demolition of any portion of the City Property.

**Demolition and Commencement of Construction:** No Sooner than March 1, 2015, and No Later than April 15, 2015.

Section 5. Except as expressly provided above, all other terms and conditions of the Purchase and Sale Agreement, as amended, shall remain unchanged and in full force and effect.

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[SIGNATURES ON THE FOLLOWING PAGE]

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

**“DEVELOPER”**

**PRAETOR INVESTMENTS, LLC**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lauri Kibby  
Managing Member

**ACCEPTED BY:**

**SELENE PALM SPRINGS, LLC**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lauri Kibby  
Managing Member

State of California )  
 )ss.  
County of Riverside )

On \_\_\_\_\_ before me, \_\_\_\_\_  
Date Name and Title of 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

\_\_\_\_\_  
Signature of Notary Public

State of California )  
 )ss.  
County of Riverside )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Date Name and Title of 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

\_\_\_\_\_  
Signature of Notary Public