



Planning Commission Staff Report

DATE: April 13, 2016

SUBJECT: SERENA PARK – PALM SPRINGS COUNTRY CLUB LLC, FOR A DEVELOPMENT AGREEMENT RELATED TO THE REDEVELOPMENT OF APPROXIMATELY 125-ACRE OF PREVIOUSLY DISTURBED VACANT LAND FOR 137 ATTACHED RESIDENCES, 292 DETACHED RESIDENCES, STREETS, PRIVATE OPEN SPACE AND PUBLIC PARK LOCATED NORTH OF VERONA ROAD, EAST OF FARRELL DRIVE, NORTH OF JOYCE DRIVE, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH, SECTION 36 / TOWNSHIP 3 / RANGE 4, AND SECTION 1 / TOWNSHIP 4 / RANGE 4 (CASE NOS. 5.1327 DA).

FROM: Planning Services Department

SUMMARY

In association with the Serena Park development applications, the Planning Commission will review a development agreement to establish terms and obligations of the city and developer for carrying out the subject project, which requests General Plan Amendments, a Planned Development in lieu of Zone Change, Tentative Tract Map and Major Architectural Application.

RECOMMENDATION:

Open the public hearing, receive public testimony, and provide recommendation to the City Council.

ISSUES:

1. **Disagreement on Terms.** Staff and the applicant disagree on the development agreement terms, including the following:
 - o Length of term/life of the agreement
 - o Amount of contribution towards density transfer (per Density Transfer Agreement)
 - o Fees to be paid by developer (development permit fees) as well as time at which such fees must be paid
 - o Responsibility of perpetual maintenance and care of proposed public park.

BACKGROUND:

According to the Office of Planning and Research, a development agreement is a planning *“tool for establishing a vested right to proceed with development in conformance with policies, rules and regulations in effect at the time of approval. Development agreements provide a developer with assurances for a specified length of time that his/her project may proceed as originally approved, and not be affected by future changes in land use regulations... In many cases and in exchange for this assurance, the landowner/developer may agree to a larger dedication of land or in-lieu fee for public use as a condition of the agreement.”* The state regulations on development agreements can be found in Government Code § 65864 through 65869.5.

The Palm Springs Zoning Code specifies a process for review and approval of development agreements. Section 94.08.00 requires the Planning Commission to hold a public hearing, prior to making a recommendation to the City Council. The Planning Commission may recommend approval of a development agreement as a method of implementing any discretionary approval, including:

- i. Rezoning;
- ii. Issuance of a conditional use permit;
- iii. Conditions imposed upon approval of a permit after discretionary review;
- iv. Conditions imposed in connection with the adoption of any specific plan;
- v. Conditions imposed in any planned development district; and/or
- vi. Site-specific conditions imposed in any other district; and/or
- vii. Mitigation measures imposed upon a project after approval of an environmental impact report in which such mitigation measures have been proposed as a mechanism for eliminating or reducing environmental impacts.

After the Planning Commission holds a public hearing, a recommendation is made to the City Council with a determination on whether or not the development agreement proposed:

- i. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- ii. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- iii. Is in conformity with public convenience, general welfare and good land use practice;
- iv. Will be detrimental to the health, safety and general welfare;
- v. Will adversely affect the orderly development of property or the preservation of property values.

ANALYSIS:

Staff and the applicant have worked to present a development agreement that each finds acceptable for the interests of the city and developer, respectively. The agreement is outlined with recitals and a list of agreements, which provide obligations of both the city and developer. Some of the highlights include:

1. Term of agreement proposed at 20 years (Sec. 3.02).
2. Developer to pay exactions per unit in an amount not to exceed \$13,620 at time of certificate of occupancy (Sec. 4.02).
3. Construction of a portion of an alternate for the CV Link Trail from Verona and Whitewater Club to Sunrise across development (Sec. 4.03.c).
4. Payment of a Fee over and above the fees referred to in Sec. 4.02, above, to be used by the City for acquisition of open space. At Developer's option, Developer will pay:
 - o A lump sum of \$2,500,000 to be paid through Statewide Community Infrastructure Program ("SCIP") funds issued prior to the recordation of a final map; or
 - o Payment of a development agreement fee of \$6,000 per new house payable prior to the issuance of building permits.(Sec. 4.03.e).
5. Conversion of a portion of Golden Sands Drive from a private to a public street to match the current and projected use patterns and more fairly apportion the burden of maintenance and liability from the Four Seasons HOA (Sec. 4.03.f)
6. Developer will build a park (Sec. 4.03.g).
7. Developer will provide 67 acres of open space within the development over and above City requirements and the Public Park (Sec. 4.03.f).
8. Fixed development standards and enforceable commitments to the adjacent HOA's:
 - o Max. building height 19 feet;
 - o Planting of landscape trees adjacent to existing homes shall be of species and spacing that minimize blocking of existing views;
 - o New walls adjacent to any phase of Whitewater Condominiums shall be built per the landscape exhibits in the PD, prior to commencement of grading on any area adjacent to that phase;
 - o Property lines adjacent to Phases 1, 2, 3 and 5 of Whitewater Condominiums shall be changed with lot line adjustments in accordance with Tentative Map exhibits or as requested by the HOA of the adjoining phase prior to recordation of any final map;
 - o The connection of Francis Drive to the Property shall be for emergency access, only;
 - o Four pedestrian gates shall be provided connecting the Whitewater Condominiums to the Property, one in Phase 1, one in Phase 3 and one on either side of Whitewater Club Drive near the entrance gates to the Whitewater Condominiums;

- A Knox-Box style gated entry for police and fire services shall be installed at the end of each of the cul-de-sacs adjacent to the entry road at Whitewater Club Drive;
- Landscaping and Irrigation incorporating existing mature trees shall be provided in an eight foot wide landscape area on both sides of Whitewater Club Drive within the Property;
- A six foot high slumpstone wall shall be built eight feet behind the existing paved road on both sides of Whitewater Club Drive, except where pedestrian and emergency access gates are provided.

(Sec. 4.03.i).

9. Annual review to occur at least every 12 months during the term of the agreement (Sec. 7.10).

While staff and the applicant have worked to agree on most terms, the following issues have not been resolved:

1. Length of Agreement (Sec. 3.02). Staff believes the term of 20-years is longer than necessary to address project buildout. The developer initially requested 25-years, and staff recommends 10-years.
2. Fees Paid by Developer:
 - a. Sec. 4.02: The cap on development permit fees is based on today's dollars. There are two concerns with this item:
 - i. The fee must be limited to only city fees.
 - ii. Fees charged by other agencies should not be included in this amount (e.g., TUMF). If the agreement is for ten years, perhaps the City could live with a fixed amount; however, anything longer should include periodic adjustments.
 - b. Sec. 4.03.e and Density Transfer Agreement: Staff notes the following concerns with the \$2.5-million lump sum or payment per new dwelling proposal:
 - i. With regard to density transfer, the amount was an estimate predicated on variable assumptions; it will likely be adjusted to achieve the desired result. The amount will be based on negotiations that relate to other properties that are not included in this development proposal.
 - ii. The submitted draft of the development agreement allows the developer to choose between a lump sum payment or a per unit paid at occupancy. This makes it challenging for the city when attempting to acquire open space for the density transfer, particularly if the developer chooses the fixed payment per new dwelling and funds are not available or adequate. In the event the amount is revised (as recommended above), this amount may be revised to reflect that amount since this provision is the method of funding that obligation.

3. Responsibility for Proposed Park (Sec. 4.03.g). Staff is recommending the public park be constructed and provided; however, this area should be maintained by the developer and/or HOA and should not be dedicated to or accepted by the City.

The development agreement will be reviewed by the Council. Staff seeks direction from the Planning Commission on these three items, should the development agreement be recommended for approval.

REQUIRED FINDINGS:

In accordance with Section 94.08.00 of the PSZC, the Planning Commission must make findings when recommend a development agreement to the City Council. Staff has provided these findings and an analysis of each below.

The Planning Commission shall determine whether or not the development agreement proposed:

- i. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;*

Under the Administration Element of the General Plan, there is discussion on the use of development agreements. It notes that such agreements can be a useful means of meeting General Plan goals and policies, while removing some of the risks faced by developers. As proposed, the project will achieve the following general plan policies:

- The project will assist in obtaining and preserving open space elsewhere in the city with the payment of fees (Land Use Element, Policy LU 2.2).
- The project will build and locate a public park in a residential area that is underserved and further than 1-mile to other public parks (Recreation, Open Space and Conservation Element, Policy RC1.3).

Therefore, the proposed development agreement is consistent with the City of Palm Springs General Plan.

- ii. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;*

The development agreement will be one component of the Serena Park project, which includes amendments to the General Plan and approvals of a Planned Development District in lieu of a Zone Change (PD), Tentative Tract Map and Architectural Review application. The PD establishes the site plan and development standards; the TTM subdivides the project site in accordance with the PD; and the Architectural Review application provides conceptual architecture for the project. The development

agreement is compatible with these uses and regulations established by the PD for the Serena Park project.

iii. Is in conformity with public convenience, general welfare and good land use practice;

The development agreement is in conformance with established City goals, objectives, and regulations outlined in the City General Plan and the City Zoning Ordinance, which the outline the process for ensuring conformity with public convenience, general welfare and good land use practice.

iv. Will be detrimental to the health, safety and general welfare;

The development agreement is not detrimental to the health, safety, and welfare of the community in that all established development standards and mitigation measures will provide protections for such occurrence.

v. Will adversely affect the orderly development of property or the preservation of property values.

The development agreement provides a tool for establishing obligations of both the developer and the city. The proposed agreement will create orderly development within established terms. It will allow the development of a defunct golf course to a maintain housing development, which is expected to increase property values with the addition of invested infrastructure and residences. Therefore, the development agreement will not adversely affect the orderly development of property or the preservation of property values.

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, an Environmental Impact Report (EIR) was prepared for the Serena Park Project. The EIR evaluated impacts of the proposed project for the proposed applications, including the development agreement. As a part of its recommendation to certify the EIR, the Planning Commission would include the impacts related to approving the development agreement.

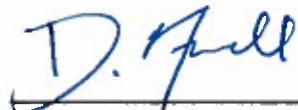
CONCLUSION:

The proposed development agreement has been reviewed by staff, and there are certain issues that require decision by Council. Staff seeks a recommendation from the Planning Commission to provide to Council on three issues:

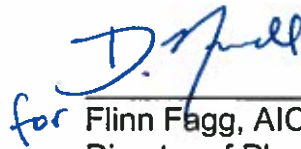
- Length of term/life of the agreement

- Amount of contribution towards density transfer (per Density Transfer Agreement)
- Fees to be paid by developer (development permit fees) as well as time at which such fees must be paid
- Responsibility of perpetual maintenance and care of proposed public park.

Upon receiving recommendation, the development agreement will be forwarded to City Council for review and decision at a future public hearing.



David A. Newell
Associate Planner



for Flinn Fagg, AICP
Director of Planning Services

Attachments:

1. Development Agreement
2. Density Transfer Agreement
3. California Government Code § 65864 through 65869.5
4. General Plan Excerpt on Development Agreements

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

(Space Above This Line Reserved For Recorder's Use)

DRAFT

Document is in Negotiation

**DEVELOPMENT AGREEMENT
BY AND BETWEEN**

CITY OF PALM SPRINGS

AND

PS COUNTRY CLUB, LLC

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement" or "Development Agreement") is entered into by and between the City of Palm Springs, a California Charter City ("City"), and PS Country Club, LLC, a California Limited Liability Company ("Developer"), pursuant to California Government Code § 65864 *et seq.*

RECITALS

A. Development Agreement Statute. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California has enacted California Government Code § 65864 *et seq.* (the "Development Agreement Statute"), which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property. This Development Agreement has been processed, considered, and executed in accordance with the procedures and requirements as set forth in the Development Agreement Statute.

B. City Ordinance. Pursuant to Government Code section 65865(c), City has adopted Ord. 1829 § 3, 2013; Ord. 1294, 1988 [PSMC § 94.08.00], that set forth rules and regulations establishing procedures and requirements for consideration of development agreements. The parties acknowledge: This Agreement will assure adequate public facilities at the time of development.

- a. This Agreement will assure development in accordance with City's land use policies and goals.
- b. This Agreement will provide for orderly growth consistent with the City's General Plan, and other public policies.
- c. This Agreement is intended to provide certainty in the development approval process by vesting the permitted uses, densities and intensity of use with respect to the subject property.
- d. The execution of this Agreement furthers the public health, safety and general welfare of the community.
- e. This Agreement will remove a nuisance situation and potential liability due to the blight at no cost to City.
- f. This Agreement will protect residents and the City from the issues that typically accompany blighted areas.
- g. This Agreement will allow development of a blighted area with appropriate housing and open space that is compatible with the surrounding neighborhoods.
- h. This Agreement will reduce potential trespasses and nuisances affecting adjacent neighborhoods.
- i. This Agreement will reduce air pollution by reason of a significant reduction in wind borne dust and sand to adjacent neighborhoods.
- j. This Agreement will increase parkland in an underserved area of the City.
- k. This Agreement will allow legal commitments by Developer over and above those allowed by state law and the Palm Springs Municipal Code requirements.

C. Description of the Project and Project Site. Developer represents and warrants that it has a legal interest in certain real property as legally described in Exhibit A attached hereto (the “Project Site”). The residential project on the Project Site, along with all related public and private improvements and obligations, is the “Project.”

D. Conversion of Open Space – Parks/Recreation Land. The Developer acknowledges the Project Site is currently designated as “Open Space – Parks/Recreation” in the City’s adopted General Plan and is zoned as “Open Space” and is therefore subject to the City’s Land Use Policy LU2.2 for the conversion of open space to developable areas. The Parties acknowledge the Developer shall cooperate with the City to secure the replacement of converted open space areas on the Project Site through the use of density transfer of property designated for residential development within the City.

E. Entitlements. Concurrent with the approval of this Agreement, City approved the following land use entitlements for the Project Site, which entitlements are also the subject of this Agreement:

- a. General Plan Amendment: From "Open Space – Parks/Recreation" (OS-P/R) to Very Low Density Residential (VLDR) for the residential portions of the project.
- b. Planned Development District in lieu of Change of Zone: From "Open Space" (0, 0-5) to Planned Development District (PDD).
- c. Tentative Tract Map: To subdivide the property into residential lots, privately owned common areas and a public park.
- d. Major Architectural Approval: Conceptual architectural and landscape plans will be part of the preliminary PDD.
- e. Transfer of Density Agreement: To cooperate in the transfer of residential density from the other areas in the City including the Chino Cone Specific Plan to the Project Site consistent with the provisions of the City’s General Plan and the Chino Cone Specific Plan at the ratio of 1.2 units for each unit removed from the Chino Cone.

The above Entitlements have been approved subject to various conditions and requirements with which Developer will be required to comply in order to develop the Project Site (“Conditions of Approval”). The approvals described above, including without limitation the Conditions of Approval as referenced in this Recital and this Agreement, are referred to herein as the “Entitlements” and have been reviewed and approved in accordance with the Municipal Code, California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.* (“CEQA”), and all other applicable local, state, and federal laws and regulations. The Entitlements, Conditions of Approval, and this Agreement shall be collectively referred to as “the Project Approvals.”

F. Substantial Costs to Developer. Developer will incur substantial costs in order to comply with the Project Approvals and to construct the additional infrastructure

improvements requested by the City to assure development of the Project Site in accordance with the terms of this Agreement.

G. Vesting of Rights. In exchange for the benefits to City described in the preceding Recitals, together with the other public benefits that will result from the development of the Project, Developer will receive by this Agreement assurance that it may proceed with the Project in accordance with the "Applicable Law" (defined below) and therefore desires to enter into this Agreement.

H. Planning Commission – Council Findings. The approval of this Agreement is made pursuant to findings by the Planning Commission and the Council that this Development Agreement:

- a. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- b. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- c. Is in conformity with public convenience, general welfare and good land use practice;
- d. Will not be detrimental to the health, safety and general welfare;
- e. Will not adversely affect the orderly development of property or the preservation of property values.

I. City Council Actions. City Council, after public hearings and extensive environmental analysis, approved the following entitlements:

- a. By Resolution No. ____, dated _____, amended City's General Plan Land Use Designation for the subject property from "Open Space – Parks/Recreation" (OS-P/R) to Very Low Density Residential (LDR) for the residential portions of the _____ project.
- b. By Ordinance No. _____, effective _____, adopted the Planned Development District in lieu of Change of Zone: From "Open Space" (0, 0) to Planned Development District (PDD).
- c. By Resolution No. _____, effective _____, approving Tentative Tract Map _____: _____ to subdivide the property into residential lots, privately owned common areas, and a public park.
- d. By Resolution No. _____, effective _____, approving Major Architectural Approval: Conceptual architectural and landscape plans.
- e. By Resolution No. _____, effective _____, approving Transfer of Density _____

_____ Agreement.

J. Ordinance. On _____, 2016, Council adopted Ordinance No. _____ approving this Agreement and authorizing the City Manager to execute the Agreement. The Ordinance becomes effective on _____, a copy of the Ordinance is attached hereto as Exhibit B.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1. DEFINITIONS

- “Agreement” shall mean this Development Agreement by and between Developer and City, dated _____ 2016.
- “Applicable Law” shall have that meaning set forth in Section 7.03 of this Agreement.
- “Changes in the Law” shall have that meaning set forth in Section 7.08 of this Agreement.
- “City” is the City of Palm Springs, a California Charter City.
- “Conditions of Approval” shall have that meaning set forth in Section 4.04 of this Agreement.
- “Default” shall have that meaning set forth in Section 11.01 of this Agreement.
- “Default Notice” shall have that meaning set forth in Section 11.01 of this Agreement.
- “Deficiencies” shall have that meaning set forth in Section 10.02 of this Agreement. “Development Agreement Statute” shall have that meaning set forth in Recital A of this Agreement.
- “Developer” is PS Country Club, LLC, a California Limited Liability Company.
- “EIR” shall mean the Final Environmental Impact Report certified by City Council on ___, 2016.
- “Entitlements” shall have that meaning set forth in Recital E of this Agreement.
- “Effective Date” shall have that meaning set forth in Section 3.01 of this Agreement.

- “Excusable Delay” shall have that meaning set forth in Section 11.04 of this Agreement.
- “Force Majeure” shall have that meaning set forth in Section 11.04 of this Agreement.
- “Judgment” shall have that meaning set forth in Section 10.02 of this Agreement.
- “Project” is defined above.
- “Project Approvals” shall have that meaning set forth in Recital E of this Agreement.
- “Prompt Review” means review of all plans, specifications, and applications by Developer in accordance with Section 7.11, below.
- “Reasonable Progress” shall mean commercially reasonable efforts by Developer to achieve full build-out and completion of all executory obligations herein within ten years in accordance with Section 7.10, below.
- “Term” shall have that meaning set forth in Section 3.02 of this Agreement.

ARTICLE 2. INCORPORATION OF RECITALS.

Section 2.01. Recitals. The Recitals set forth above, the introductory paragraph preceding the Recitals, and all defined terms set forth in both, are hereby incorporated into this Agreement as if set forth herein in full.

ARTICLE 3. EFFECTIVE DATE AND TERM

Section 3.01. Effective Date. This Agreement shall become effective as of the date the City Council of City approves this Agreement (the “Effective Date”).

Section 3.02. Term. The term of this Agreement (the “Term”) shall commence upon the Effective Date and continue for a period of **twenty (20) years**, unless the Term is terminated or modified as set forth in this Agreement or by mutual consent of the parties hereto.

ARTICLE 4. OBLIGATIONS OF DEVELOPER

Section 4.01. Obligations of Developer Generally. In consideration of City entering into this Agreement, Developer agrees that it will comply with this Agreement and with all Project Approvals. The parties acknowledge and agree that City’s agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer’s agreement to perform and abide by its long term covenants and obligations, as set forth herein.

Section 4.02. Fees Paid by Developer. As a material consideration for the long term assurances and vested rights provided by this Agreement, Developer shall pay fees and exactions to City as set forth in the Project Approvals not to exceed a total amount of **\$13,620.00** (“City

Fees”)per unit for all fees and charges imposed by the City and payable no earlier than City’s issuance of a certificate of occupancy. These fees shall be adjusted to include credits against any and all park fees, including but not limited to, Quimby Fees pursuant to California Government Code §66477, included in the City Fees, for the costs of both land and improvements provided by the Developer to build the public park.

Section 4.03. Public benefits provided by Developer.

- a. All conditions of approval of the Project adopted and accepted by the Developer.
- b. Reservation of lands for public use, owned and maintained by Developer or any successor HOA, in accordance with Exhibit C-1 attached hereto.
- c. Construction of a portion of an alternate for the CV Link Trail from Verona and Whitewater Club to Sunrise across development.
- d. Indemnification over and above the indemnification allowed under the Map Act.
- e. Payment of a Development Agreement Fee over and above the fees referred to in paragraph 4.02, above, to be used by the City for acquisition of open space. At Developer’s option, Developer will pay:
 - 1) A lump sum of \$2,500,000 to be paid through Statewide Community Infrastructure Program (“SCIP”) funds issued prior to the recordation of a final map; or
 - 2) Payment of a development agreement fee of \$6,000 per new house payable prior to the issuance of building permits.
- f. Conversion of a portion of Golden Sands Drive from a private to a public street to match the current and projected use patterns and more fairly apportion the burden of maintenance and liability from the Four Seasons HOA.
- g. Developer will build a public park in the approximate location shown on Exhibit C-1;
- h. Developer will provide 67 acres of open space within the development over and above City requirements and the Public Park.
- i. Fixed development standards and enforceable commitments to the adjacent HOA’s:
 - 1) The maximum height of any buildings in the development shall be no higher than 19 feet;
 - 2) Planting of landscape trees adjacent to existing homes shall be of species and spacing that minimize blocking of existing views;
 - 3) New walls adjacent to any phase of the Whitewater Condominiums shall be built per the landscape exhibits in the Planned Development Permit prior to the commencement of grading on any areas adjacent to that phase;
 - 4) Property lines adjacent to Phases 1, 2, 3 and 5 of the Whitewater Condominiums shall be changed with lot line adjustments in accordance with the tentative map exhibits or as requested by the HOA of the adjoining phase prior to the recordation of any final map;
 - 5) The connection of Francis Drive to the Property shall be for emergency access, only. A Knox-Box type gated entry control for police and fire services shall be provided;
 - 6) Four pedestrian gates shall be provided connecting the Whitewater Condominiums to the Property, one in Phase 1, one in Phase 3 and one on either side of Whitewater Club Drive near the entrance gates to the Whitewater Condominiums;

- 7) A Knox-Box style gated entry for police and fire services shall be installed at the end of each of the cul de sacs adjacent to the entry road at Whitewater Club Drive;
- 8) Landscaping and Irrigation incorporating existing mature trees shall be provided in an eight foot wide landscape area on both sides of Whitewater Club Drive within the Property;
- 9) A six foot high slumpstone wall shall be built eight feet behind the existing paved road on both sides of Whitewater Club Drive, except where pedestrian and emergency access gates are provided.

Section 4.04. Compliance with Project Conditions. In addition to any and all obligations contained in this Agreement, Developer shall comply with and fulfill any and all Conditions of Approval. The Development of the Project and Project Site shall be governed by the terms of the Conditions of Approval and this Agreement. The Conditions of Approval and this Agreement shall, to the fullest extent possible, be read and considered as fully integrated documents, and shall be interpreted so as to avoid inconsistencies, comply with all applicable federal and state laws and City Law, and ensure that the objectives of the parties will be fully realized.

Nothing in this Agreement is intended to supersede, terminate, modify or otherwise affect any provision of the Conditions of Approval, except to the extent that a provision of this Agreement is in direct conflict with a provision of such Condition of Approval. Then, and only in that event, the provisions of this Agreement shall prevail over the contradictory provisions of any such Condition of Approval. The execution of this Agreement by the parties hereto shall in no way otherwise affect the validity of any or all of the provisions of the Conditions of Approval.

ARTICLE 5. OBLIGATIONS OF CITY

In consideration of Developer entering into this Agreement, City agrees that it will comply with the terms and conditions of this Agreement. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement is a material consideration for the City's agreement to perform and abide by the long term covenants and obligations of the City, as set forth herein.

ARTICLE 6. COOPERATION - IMPLEMENTATION

The parties agree to cooperate in good faith to implement this Agreement.

ARTICLE 7. STANDARDS, LAWS AND PROCEDURES GOVERNING THE PROJECT

Section 7.01. Vested Right to Develop. Developer shall have a vested right to build out the Project through the Term on the Project Site in accordance with the terms and conditions of the Project Approvals.

Section 7.02. Permitted Uses Vested by This Agreement. The permitted residential use of the Project Site, the density and intensity of use of the Project Site, the maximum height, bulk and size of proposed buildings, provisions for reservation or dedication of land for public purposes and the location of public improvements, the general location of public utilities, and other terms and conditions of development applicable to the Project, are set forth in the Project

Approvals.

Section 7.03. Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the Project (the "Applicable Law") shall be those set forth in the Project Approvals, and, with respect to matters not addressed by the Project Approvals, those rules, regulations, official policies, standards and specifications (including City ordinances and resolutions) governing permitted uses, building locations, timing of construction, densities, design, heights, fees, exactions, and taxes in force and effect on the Effective Date of this Agreement.

Section 7.04. Uniform Codes. City may apply to the Project Site, at any time during the Term, the then current Uniform building construction, fire or other codes, as the same may be adopted or amended from time to time by City, and City's then current design and construction standards for public improvements, as the same may be adopted or amended from time to time, provided any such uniform code or standard has been adopted and uniformly applied by City on a citywide basis, and provided that no such code or standard is adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

Section 7.05. No Conflicting Enactments. City shall not impose on the Project (whether by action of the City Council or by initiative, referendum or other means) any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a "City Law") that is in conflict with Applicable Law, or the Project Approvals, or that reduces the development rights or assurances provided by this Agreement with respect to the Project. Without limiting the generality of the foregoing, such City Law may be allowed to address a significant public health or safety issue. Without limiting the generality of the foregoing, any City Law shall be deemed to conflict with Applicable Law, or the Project Approvals, or reduce the development rights provided hereby if it would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project.

Approvals:

- a. Change any land use designation or permitted use of the Project Site existing as of the Effective Date of this Agreement;
- b. Limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) for the Project, unless such limitation is necessary to address significant health and safety issues;
- c. Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals;
- d. Limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner inconsistent with the Project Approvals;

- e. Apply to the Project any City Law otherwise allowed by this Agreement that is not uniformly applied on a the citywide basis to all substantially similar types of development projects and project sites;
- f. Result in Developer having to substantially delay construction of the Project or require the issuance of additional permits or approvals by the City other than those required by the Project Approvals or Applicable Law;
- g. Substantially increase the cost of constructing or developing the Project or any portion thereof;
- h. Establish, enact, increase, or impose against the Project or Project Site any fees, taxes (including without limitation general, special and excise taxes), assessments, liens or other monetary obligations other than those specifically permitted by this Agreement;
- i. Impose against the Project any condition, dedication or other exaction not specifically authorized by the Project Approvals or Applicable Law;
- j. Grant any development right, entitlement or approval for any portion of the Property that will reduce, limit or encumber Developer's rights hereunder, or
- k. Unreasonably limit the timing, processing or procuring of applications and approvals.

If City attempts to apply to the Project a City Law that Developer believes to conflict with Applicable Law or the Project Approvals, Developer shall provide to City in writing a notice describing the legal and factual basis for Developer's position. The parties shall meet and confer within thirty (30) days after the date of such written notice with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. If no mutually acceptable solution can be reached, either party may take such action as may be permitted under Section 11.07, below.

Section 7.06. Initiatives and Referenda.

- a. To the maximum extent permitted by law, if any City Law is enacted or imposed by initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with Applicable Law, or the Project Approvals or reduce the development rights provided by this Agreement, such City Law shall not apply to the Project.
- b. Without limiting the generality of any of the foregoing and to the maximum extent permitted by law, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting building permits or other entitlements to which Developer is entitled pursuant to the Project Approvals shall apply to the Project.
- c. To the maximum extent permitted by law, City shall take reasonable actions to

prevent any City Law from invalidating or prevailing over all or any part of this Agreement, and City shall cooperate with Developer and shall undertake such reasonable actions as may be necessary to ensure this Agreement remains in full force and effect.

- d. City shall not support, adopt or enact any City Law, or take any other action which would violate the express provisions or spirit and intent of this Agreement or the Project Approvals.
- e. Developer reserves the right to challenge in court any City Law that is enacted after the Effective Date of this Agreement that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement.

Section 7.07. Environmental Mitigation. The parties understand that the EIR was intended to be used in connection with all of the Project Approvals needed for the Project.

Section 7.08. State and Federal Law. As provided in California Government Code § 65869.5, this Agreement shall not preclude the application to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations, or by any regional governmental agency that, due to the operation of state law, has binding legal authority on City ("Changes in the Law"). In the event Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article 10 (Cooperation-Implementation) and Section 11.04 (Force Majeure and Excusable Delays; Extension of Time of Performance). Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically mandated and required by state or federal laws and regulations, provided that nothing shall limit Developer's ability to challenge such laws and the imposition of such fees.

Section 7.09. Timing of Project Construction and Completion.

- a. Project Timing. The parties acknowledge that Developer cannot predict the timing, rate, order or actual timing with certainty. The timing, order and rate of development shall be in Developer's sole discretion, except as otherwise provided in the **Project Approvals**.
- b. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. the City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later- adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project at such rate and at such times as Developer deems appropriate within the exercise

of its subjective business judgment, provided that such schedule is consistent with this Agreement.

Section 7.10. Annual Review. City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. The review may specifically include a review of whether Developer is making Reasonable Progress. To assess such progress, the City Planning Director may require at any time subsequent to the execution of this Agreement, and as frequently as annually thereafter, a development planned schedule showing a ten-year (or less) completion schedule. Reasonable Progress shall take into account market conditions, commercial realities, the sensitivities of adjacent residents and prudent construction practices. Reasonable Progress is expressly subject to City's obligation of Prompt Review specified in Section 7.11, below. City may charge fees as necessary to cover the costs of conducting the annual review. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1. Said review shall be diligently completed. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. A finding by City of good faith compliance by Developer and Landowner with the terms of the Agreement shall conclusively determine said issue up to and including the date of said review. City shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) calendar days prior to such periodic review. Developer or Landowner shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council and, if the matter is referred to a City Planning Commission, before said Commission

Section 7.11 Prompt Review by the City. City and Developer shall cooperate and use commercially reasonable efforts to timely review and approve the development design review process, building plan review process, improvement plan review process, and if necessary, the entitlement review process for the residential and other developments to be located within the Project. Review of any application provided by this subparagraph shall not be deemed to waive any of the Applicable Law pertaining to review or approval of such application, including, but not limited to, a public hearing, if any, required therefore. In the event the Parties agree to use an expedited process to perform any review pursuant to this subparagraph, Developer authorizes the imposition of City Fees paid to the City sufficient to cover City's estimated costs of utilizing City staff, retaining an outside consultant or any combination thereof in order to expedite the review process. Any such process shall terminate upon the expiration or termination of this Agreement or the issuance of the final certificate of occupancy for development within the Project, whichever occurs first.

Section 7.12. Exempting Fees Imposed by Outside Agencies. Except as specified in 7.08, above, City agrees to exclude Developer from any and all collection agreements regarding fees, including, but not limited to, development impact fees which other public agencies or responsible agencies request City to impose at City's discretion on the Project or the Project Site after the Effective Date through the Term of this Agreement, provided, however, that Developer will not be exempted from fees included in the Project Approvals.

ARTICLE 8. AMENDMENT

This Agreement may be amended from time to time, in whole or in part, by mutual

written consent of the parties hereto or their successors in interest, in accordance with the Development Agreement Statute.

ARTICLE 9. ASSIGNMENT, TRANSFER AND NOTICE

Section 9.01. Assignment of Interests, Rights and Obligations. Developer may only transfer or assign all or any portion of its interests, rights or obligations under the Project Approvals to another person or entity acquiring an interest or estate in the Project or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities that accepts all of the then-applicable responsibilities of the Developer.

Section 9.02. Limits of Liability. To the extent the Developer's responsibilities are transferred in good faith to another person or entity, Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

ARTICLE 10. COOPERATION IN THE EVENT OF LEGAL CHALLENGE

Section 10.01. Cooperation.

- a. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of the Agreement or any Project Approval, the parties shall cooperate in defending such action or proceeding. The parties shall use best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay compensation for such legal counsel; provided, however, that such compensation shall include only compensation paid to counsel not otherwise employed as City staff and shall exclude, without limitation, City Attorney time and overhead costs and other City staff overhead costs and normal day-to-day business expenses incurred by City. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel.
- b. The parties agree that this Section 10.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

Section 10.02 RESERVED.

Section 10.03. Waiver of Challenges to Project Approvals.

- a. As a condition precedent to receiving the benefits of this Agreement, Developer, its successors in interest, transferees, assignees, etc., expressly waive any legal or equitable right to challenge any Project Approvals or other act, entitlement, fee, or approval expressly set forth in this Agreement, including without limitation, all acts of protest pursuant to California Government Code Sections 66008 and

66009 as to any fee against which Developer has vested in accordance with this Agreement.

- b. The parties agree that this Section 10.03(b) shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

ARTICLE 11. DEFAULT; REMEDIES; TERMINATION

Section 11.01. Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (unless such period is extended by mutual written consent), shall constitute a default under this Agreement (“Default”). Any notice given pursuant to the preceding sentence (“Default Notice”) shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of a Default under this Agreement, the non-defaulting party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material Default, terminate this Agreement. If the Default is cured, then no Default shall exist and the noticing party shall take no further action.

Section 11.02. Termination. If City elects to consider terminating this Agreement due to a material Default of Developer, then City shall give a notice of intent to terminate this Agreement. City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter.

Section 11.03. Default by City or Developer. In the event that City or Developer defaults under the terms of this Agreement, the City or Developer shall have all rights and remedies provided herein or under law.

Section 11.04. Force Majeure and Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be in Default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting state or federal laws or regulations, judicial decisions, or similar basis for excusable performance which is not within the reasonable control of the party to be excused (collectively “Force Majeure”). Litigation attacking the validity of this Agreement or any of the Project Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project pursuant to this Agreement, shall also be deemed to create an excusable delay as to Developer (collectively “Excusable Delay”). The party whose performance is prevented or delayed by such event of Force Majeure or Excusable Delay shall give prompt written notice thereof to the other party and both parties shall have agreed that performance is appropriately excused or delayed pursuant to this Section 11.04. In the event of Force Majeure or Excusable Delay, the parties shall memorialize in writing the extension of

time for the performance of any obligation whose performance has been so prevented or delayed. The term of any such extension shall be equal to the period of the Excusable Delay or Force Majeure or such other period as may be mutually agreed upon by both parties.

Section 11.05. Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

Section 11.06. California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for any action shall be in Riverside County, California.

Section 11.07. Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer and City shall, at the request of the party, meet and shall attempt in good faith to resolve any such disputes. Nothing in this Section 11.07 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach an agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to by the parties to such meetings.

Section 11.08. Attorneys' Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, each party shall bear its own costs and expenses, including attorneys' fees.

Section 11.09. Hold Harmless. Developer shall, at its sole expense, defend and hold City and its elected and appointed officers, agents, employees, and representatives harmless from all claims, costs, and liabilities for any personal injury, death, or property damage which arises directly or indirectly as a result of the construction of the Project, the Project Site, or of operations performed under this Agreement by Developer or by Developer's contractors, subcontractors, agents or employees, whether such operations were performed by Developer or any of Developer's contractors, subcontractors, agents, or by any one or more persons directly or indirectly employed by or acting as agent for Developer or any of Developer's contractors or subcontractors. Nothing in this section shall be construed to mean that Developer shall hold City harmless from any claims of personal injury, death or property damage arising from, or alleged to arise solely from, any negligent or intentional act, or failure to act, on the part of City, its elected and appointed representatives, officers, agents and employees.

This hold harmless agreement applies to all damages or claims for damages suffered or alleged to have been suffered by reason of the operations referred to in this section regardless of whether or not City prepared, supplied or approved plans or specifications, or both, for the Project and/or Project Site.

The parties agree that this Section 11.09 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or

setting aside.

ARTICLE 12. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties hereto that: (i) the subject development is a private development; (ii) City has no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals and Applicable Law; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer.

ARTICLE 13. MISCELLANEOUS

Section 13.01. Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto, notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code Section 65866.

Section 13.02. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party.

Section 13.03. Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 13.04. Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to the Agreement or the Project Approvals as they may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 13.05. Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 13.06. Covenants Running with the Land. All of the provisions contained in this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Project Site and the burdens and benefits hereof shall be binding upon and inure to the benefit of the parties and their respective heirs, successors in interest, transferees and assignees, representatives, lessees, and all other persons acquiring all or a portion of the Project or the Project Site, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468.

Section 13.07. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail) by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party’s facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the City, to:

David H. Ready, Esq., Ph.D.
City Manager
Palm Springs City Hall
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(760) 322-8362
David.Ready@palmsprings-ca.gov

With Copies to:

Douglas Holland

City Attorney
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(760) 323-8299
Douglas.Holland@palmspringsca.gov

If to Developer, to:

Eric Taylor
Somis Investments
300 E. Esplanade, Suite 1785
Oxnard, CA 93036
Tel: 805-633-1037
Fax: 805-633-4523
etaylor@somisinvestments.com

With Copies to:

Mark C. Allen, III
The Claremont Land Group Attorneys
5861 Pine Avenue, Suite A-1
Chino Hills, CA 91709-6540
Tel: (909) 398-4404;
Fax: (909) 398-1883
(909) 333-5254 - Direct
Mark@mcallen3.com

Section 13.08. Entire Agreement, Counterparts and Exhibits. This Agreement is executed in duplicate, each of which is deemed to be an original. This Agreement consists of 19 pages and three exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof.

Section 13.09. Waiver. Any waivers of the provisions of this Agreement or any breach of covenants or conditions contained in this Agreement shall be effective only if in writing and signed by the appropriate authorities of City and Developer. A waiver of one provision or breach shall not be considered as a continuing waiver, shall not constitute a waiver of any other conditions or covenants and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

Section 13.10. Recordation of Development Agreement. No later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Riverside.

Section 13.11. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than City and Developer, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

Section 13.12. Titles of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement’s provisions.

Section 13.13. Discretion of City. City’s execution of this Agreement in no way limits the discretion of City in the permit or approval process in connection with any site plan approvals, subsequent entitlements, land use decisions, construction or improvements which are within City’s jurisdiction, except to the extent expressly and unequivocally stated herein.

Section 13.14. Representations of Authority. As to each person signing this Agreement on behalf of an entity, all necessary legal prerequisites to that party’s execution of this Agreement have been satisfied and he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

IN WITNESS WHEREOF, the City of Palm Springs California, a Charter City, has authorized the execution of this Development Agreement in duplicate by its City Manager and attestation by its City Clerk, and approved by the Council of the City on the ____ day of _____. 2016 and Developer has caused this Agreement to be executed by its authorized representative.

Developer By: _____	City of Palm Springs By: _____
P S Country Club, LLC, a California Limited Liability Company By: _____	APPROVED AS TO FORM By: _____

**DENSITY TRANSFER
AGREEMENT**

THIS DENSITY TRANSFER AGREEMENT ("Agreement") is entered into as of _____, 2016 by and between the City of Palm Springs, a California Charter City ("City"), and PS Country Club, LLC, a California Limited Liability Company ("Developer") to effectuate the intent of the Development Agreement entered into concurrently with this Agreement. The Development Agreement is hereby incorporated by reference as though set forth *in hac verba*.

RECITALS

A. Developer Acknowledgement. Developer acknowledges that the Project Site (as defined in the Development Agreement) upon which it will construct residential units in an area currently designated as Open Space. Developer further acknowledges that it has agreed to cooperate with City to transfer residential development rights from other property located in the City onto the Project Site if feasible. Developer understands that this is an important goal of the City

B. City Acknowledgement. City acknowledges that in order for the Developer to contribute funds and to accomplish the other objectives of the property, the Developer's obligation to cooperate cannot be unlimited. City acknowledges that any requests for cooperation must be commercially reasonable.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS

Section 1.01. Recitals. The Recitals set forth above are hereby incorporated into this Agreement as if set forth herein in full.

ARTICLE 2. TERM

Section 2.01. Term. This Agreement will run concurrently with the Development Agreement unless fully performed, terminated or modified as set forth in this Agreement, or by mutual consent of the parties hereto before the end of the term of the Development Agreement.

ARTICLE 3. LIMIT OF LIABILITY

Section 3.01. Financial Liability. Neither party shall be required to take on added financial liability over and above that specified in the Development Agreement.

Section 3.02. Tort/Contract Liability. Neither party shall be required to take on added tort or contract liability over and above that specified in the Development Agreement.

ARTICLE 4. OBLIGATIONS OF DEVELOPER

Section 4.01. Obligations of Developer to Cooperate. Developer agrees that it will cause representatives to attend meetings; engage in negotiations; draft and review documents including, but not limited to, legal documents and work with City staff on approaches and ideas to accomplish the density transfer goals of City.

Section 4.02. Obligation of Developer to Execute Documents. Subject to the Limitation on Developer Liability in Article 3, above, and the Maximum Financial Obligation in Section 4.03 below, Developer agrees to execute all documents needed to assist City. These may include, but are not limited to assignments, deeds, contracts, options and applications.

Section 4.03. Maximum Financial Obligation of Developer. **Notwithstanding any other provision herein, the maximum financial contribution by Developer shall be Two Million Five Hundred Thousand Dollars (\$2,500,000.00).** Such amount shall be inclusive of any cost or contributions whether in cash or in kind or by way of services. This amount shall not include any amounts that would have otherwise been a necessary expense for the development of the Project Site in the absence of this Agreement. Also excluded for this limitation is up to forty (40) hours of legal work and the services of a professional planner.

ARTICLE 5. OBLIGATIONS OF CITY

In consideration of Developer entering into this Agreement, City agrees that it will promptly communicate with Developer on all subjects related to this Agreement. The City will use its professional staff to do the primary work on any documents, applications or approvals. The City will obtain any needed title documents and will perform any environmental review.

ARTICLE 6. COOPERATION - IMPLEMENTATION

The parties agree to cooperate in good faith to implement this Agreement.

ARTICLE 7. AMENDMENT

This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, in accordance with the Development Agreement Statute.

ARTICLE 8. ASSIGNMENT, TRANSFER AND NOTICE

Neither party may assign any rights or obligations under this Agreement without the express written consent of the other. Such consent shall not be unreasonably withheld.

ARTICLE 9. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties hereto that City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship

between City and Developer.

ARTICLE 10. MISCELLANEOUS

Section 10.01. Force Majeure and Excusable Delay; Extension of Time of Performance. In addition to the specific provisions of this Agreement, neither party shall be deemed to be in Default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting state or federal laws or regulations, judicial decisions, or similar basis for excusable performance which is not within the reasonable control of the party to be excused (collectively “Force Majeure”). Litigation attacking the validity of this Agreement or any of the Project Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project pursuant to this Agreement, shall also be deemed to create an excusable delay as to Developer (collectively “Excusable Delay”). The party whose performance is prevented or delayed by such event of Force Majeure or Excusable Delay shall give prompt written notice thereof to the other party and both parties shall have agreed that performance is appropriately excused or delayed pursuant to this Section 10.01. In the event of Force Majeure or Excusable Delay, the parties shall memorialize in writing the extension of time for the performance of any obligation whose performance has been so prevented or delayed. The term of any such extension shall be equal to the period of the Excusable Delay or Force Majeure or such other period as may be mutually agreed upon by both parties.

Section 10.02. Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

Section 10.03. California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for any action shall be in Riverside County, California.

Section 10.04. Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer and City shall, at the request of the party, meet and shall attempt in good faith to resolve any such disputes. Nothing in this Section 10.04 shall in any way be interpreted as requiring that Developer and City and/or City’s designee reach an agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to by the parties to such meetings.

Section 10.05. Attorneys’ Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, each party shall bear its own costs and expenses, including attorneys’ fees.

Section 10.06. Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be

enforceable by any party hereto, notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code Section 65866.

Section 10.07. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party.

Section 10.08. Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 10.09. Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to the Agreement or the Project Approvals as they may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 10.10. Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 10.11. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party’s facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown

on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the City, to:

David H. Ready, Esq., Ph.D.
City Manager
Palm Springs City Hall
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(760) 322-8362
David.Ready@palmsprings-ca.gov

With Copies to:

Douglas Holland
City Attorney
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(760) 323-8299
dholland@wss-law.com

If to Developer, to:

Eric Taylor
Somis Investments
300 E. Esplanade, Suite 1785
Oxnard, CA 93036
Tel: 805-633-1037
Fax: 805-633-4523
etaylor@somisinvestments.com

With Copies to:

Mark C. Allen, III
The Claremont Land Group Attorneys
5861 Pine Avenue, Suite A-1
Chino Hills, CA 91709-6540
Tel: (909) 398-4404;
Fax: (909) 398-1883
(909) 333-5254 - Direct
Mark@mcallen3.com

Section 10.12. Entire Agreement, Counterparts and Exhibits. This Agreement is executed in duplicate, each of which is deemed to be an original. This Agreement consists of 6 pages that constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof.

Section 10.13. Waiver. Any waivers of the provisions of this Agreement or any breach of covenants or conditions contained in this Agreement shall be effective only if in writing and signed by the appropriate authorities of City and Developer. A waiver of one provision or breach shall not be considered as a continuing waiver, shall not constitute a waiver of any other conditions or covenants and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

Section 10.14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than City and Developer, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

Section 10.15. Titles of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement’s provisions.

Section 10.16. Representations of Authority. As to each person signing this Agreement on behalf of an entity, all necessary legal prerequisites to that party’s execution of this Agreement have been satisfied and he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

IN WITNESS WHEREOF, the City of Palm Springs California, a Charter City, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Ordinance No. ???? , adopted by the Council of the City on the ____ day of _____, 2016 and Developer has caused this Agreement to be executed by its authorized representative.

<p>Developer</p> <p>By: _____</p>	<p>APPROVED AS TO FORM</p> <p>By: _____ City Attorney</p>
<p>P S Country Club, LLC, a California Limited Liability Company</p> <p>By</p>	<p>APPROVED AS TO FORM</p> <p>By: _____</p>

GOVERNMENT CODE

SECTION 65864-65869.5

65864. The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

(c) The lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities, is a serious impediment to the development of new housing. Whenever possible, applicants and local governments may include provisions in agreements whereby applicants are reimbursed over time for financing public facilities.

65865. (a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article.

(b) Any city may enter into a development agreement with any person having a legal or equitable interest in real property in unincorporated territory within that city's sphere of influence for the development of the property as provided in this article. However, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

(c) Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(d) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

(e) For any development agreement entered into on or after January 1, 2004, a city, county, or city and county shall comply with Section 66006 with respect to any fee it receives or cost it recovers pursuant to this article.

65865.1. Procedures established pursuant to Section 65865 shall include provisions requiring periodic review at least every 12

months, at which time the applicant, or successor in interest thereto, shall be required to demonstrate good faith compliance with the terms of the agreement. If, as a result of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the local agency may terminate or modify the agreement.

65865.2. A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.

The agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

65865.3. (a) Except as otherwise provided in subdivisions (b) and (c), Section 65868, or Section 65869.5, notwithstanding any other law, if a newly incorporated city or newly annexed area comprises territory that was formerly unincorporated, any development agreement entered into by the county prior to the effective date of the incorporation or annexation shall remain valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The holder of the development agreement and the city may agree that the development agreement shall remain valid for more than eight years, provided that the longer period shall not exceed 15 years from the effective date of the incorporation or annexation. The holder of the development agreement and the city shall have the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of the county.

(b) The city may modify or suspend the provisions of the development agreement if the city determines that the failure of the city to do so would place the residents of the territory subject to the development agreement, or the residents of the city, or both, in a condition dangerous to their health or safety, or both.

(c) Except as otherwise provided in subdivision (d), this section applies to any development agreement which meets all of the following requirements:

(1) The application for the agreement is submitted to the county prior to the date that the first signature was affixed to the petition for incorporation or annexation pursuant to Section 56704 or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county enters into the agreement with the applicant prior to the date of the election on the question of incorporation or annexation, or, in the case of an annexation without an election pursuant to Section 57075, prior to the date that the conducting

authority orders the annexation.

(3) The annexation proposal is initiated by the city. If the annexation proposal is initiated by a petitioner other than the city, the development agreement is valid unless the city adopts written findings that implementation of the development agreement would create a condition injurious to the health, safety, or welfare of city residents.

(d) This section does not apply to any territory subject to a development agreement if that territory is incorporated and the effective date of the incorporation is prior to January 1, 1987.

65865.4. Unless amended or canceled pursuant to Section 65868, or modified or suspended pursuant to Section 65869.5, and except as otherwise provided in subdivision (b) of Section 65865.3, a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city, county, or city and county entering the agreement, which alters or amends the rules, regulations, or policies specified in Section 65866.

65865.5. (a) Notwithstanding any other law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system that will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(4) The property in an undetermined risk area has met the urban level of flood protection based on substantial evidence in the record.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

65866. Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a city, county, or city and county, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a city, county, or city and county from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

65867. A public hearing on an application for a development agreement shall be held by the planning agency and by the legislative body. Notice of intention to consider adoption of a development agreement shall be given as provided in Sections 65090 and 65091 in addition to any other notice required by law for other actions to be considered concurrently with the development agreement.

65867.5. (a) A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.

(b) A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(c) A development agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with the provisions of Section 66473.7.

65868. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 65867. An amendment to an agreement shall be subject to the provisions of Section 65867.5.

65868.5. No later than 10 days after a city, county, or city and county enters into a development agreement, the clerk of the legislative body shall record with the county recorder a copy of the agreement, which shall describe the land subject thereto. From and

after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this state. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

65869. A development agreement shall not be applicable to any development project located in an area for which a local coastal program is required to be prepared and certified pursuant to the requirements of Division 20 (commencing with Section 30000) of the Public Resources Code, unless: (1) the required local coastal program has been certified as required by such provisions prior to the date on which the development agreement is entered into, or (2) in the event that the required local coastal program has not been certified, the California Coastal Commission approves such development agreement by formal commission action.

65869.5. In the event that state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

DEVELOPMENT AGREEMENTS

State law provides for development agreements between a project proponent and the City. The purpose of a development agreement is to provide developers with additional assurances that the policies, rules and regulations, and conditions of approval in effect at the time a project was approved will not be nullified by a future local policy or regulation change. In exchange, the developer may be required to meet certain conditions or performance criteria, which become part of the agreement.

Development agreements can be a useful means of meeting General Plan goals and policies while removing some of the risks faced by developers. Agreements can remain in effect for a few or several years, the term typically being set forth in the agreement. It is important to emphasize that, as set forth in the Government Code, the City is not prohibited from applying new rules, regulations, and policies to the property unless specifically stated in the development agreement, nor is the City prevented from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, or policies.

REDEVELOPMENT PLANS

Community Redevelopment Law authorizes a city to undertake redevelopment projects to turn blighted, deteriorating areas into revitalized community assets. Redevelopment strategies can include the use of tax increment financing (i.e., the amount of additional tax revenue generated by increased property valuations as a result of new development on the property), property acquisition, consolidation of small parcels, joint public-private partnerships, clearance of land and resale to developers, and relocation of tenants. Redevelopment projects can be implemented only for areas where there is a documented presence of physical, economic, and/or social blight. The City's redevelopment areas were originally comprised of 10 redevelopment project areas established between 1973 and 1991, but were ultimately merged into two project areas in 2000, as shown on Figure 1-2, *Redevelopment Areas*.

SPHERE OF INFLUENCE

Land use planning for the Palm Springs does not stop at the City boundaries. Unincorporated lands adjacent to the City's borders are identified by the Riverside County Local Agency Formation Commission (LAFCO) as areas likely to be serviced or annexed by the City in the future. These lands are known as the City's Sphere of Influence (SOI).