



City of La Quinta

AGENDA CATEGORY:

CITY / SA / HA / FA MEETING DATE: November 4, 2014

BUSINESS SESSION:

ITEM TITLE: ADOPT A RESOLUTION TO APPROVE A PURCHASE AND SALE AGREEMENT WITH DESERT LAND HOLDINGS, LLC FOR THE SALE OF CERTAIN CITY PROPERTY LOCATED ON THE EAST SIDE OF JEFFERSON STREET BETWEEN PALM CIRCLE DRIVE AND THE WHITEWATER CHANNEL

CONSENT CALENDAR: 6

STUDY SESSION:

PUBLIC HEARING:

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to enter into a Purchase and Sale Agreement with Desert Land Holdings, LLC for the sale of certain city owned property located on the east side of Jefferson Street between Palm Circle Drive and the Whitewater Channel.

EXECUTIVE SUMMARY:

- The subject property consists of several lots that were formerly single family homes acquired by the City to widen Jefferson Street. Approximately 30 feet of the former lots remain after the street and parkway improvements were installed.
- Mr. Jim Snellenberger of Desert Land Holdings, LLC (Developer) recently acquired an adjacent vacant lot that was formerly two golf holes.
- The Developer desires to combine the City's remainder lots with his adjacent vacant lot for the future development of 16 single-family residential units.
- As an incentive to the City and the project's neighboring community, the Developer has offered to provide a sewer utility stub allowing for future sewer connection of existing units at the adjacent Westward Isle development.

FISCAL IMPACT:

The City would receive approximately \$25,000 in land sale income. Staff recommends that these sale proceeds be deposited into the Economic Development Investment Fund.

BACKGROUND/ANALYSIS:

The subject property represents a remainder area originating from nine lots (former single-family residential homes) the City acquired in 2005 to widen Jefferson Street. All but approximately the east 30 feet of these lots were utilized for road widening and associated parkway improvements. The size of the subject property is estimated to be 25,000 square feet (Subject Property).

The Developer desires to purchase the Subject Property and combine it with an adjacent vacant parcel to the east, which was previously used as two golf holes associated with the Indian Springs Golf Course. The Developer proposes subdividing this larger parcel into 16 single-family residential lots.

The Developer has met with representatives from the adjacent Westward Isle residential community and discussed the proposed single-family development. Westward Isle is a 28-unit condominium community developed approximately 40 years ago. All 28 units are currently on septic systems. The Developer has offered to provide a sewer utility stub in that would allow Westward Isle units to connect to sewer.

The Purchase and Sale Agreement facilitates the sale of the Subject Property to Desert Land Holdings, LLC for \$1 per square foot, subject to tentative tract map approval and establishing a sewer utility stub for future sewer connection of the Westward Isle residential units. This value was determined by reviewing the value the Subject Property provides the 16 unit development, and the benefits the Westward Isle subdivision would gain from the sewer utility stub.

ALTERNATIVES:

Council may elect to not enter into a Purchase and Sale Agreement or provide direction regarding the terms contained in the Purchase and Sale Agreement.

Report prepared by: Les Johnson, Community Development Director
Report approved for submission by: Frank J. Spevacek, City Manager

- Attachments:
1. Vicinity Map
 2. Purchase and Sale Agreement

RESOLUTION NO. 2014 –

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, APPROVING AN AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS BETWEEN THE CITY OF LA QUINTA AND DESERT LAND HOLDINGS, LLC FOR CERTAIN PROPERTY LOCATED ON THE EAST SIDE OF JEFFERSON STREET BETWEEN PALM CIRCLE DRIVE AND THE WHITEWATER CHANNEL

WHEREAS, the City of La Quinta ("City") desires to see efficient use of land and provide opportunity for quality and vibrant development; and,

WHEREAS, such development is in accordance with the goals, policies and programs of the La Quinta General Plan; and,

WHEREAS, City staff has negotiated an Agreement for Purchase and Sale and Escrow Instructions ("Agreement") with Desert Land Holdings, LLC ("Developer") ("Exhibit 1" attached), pursuant to which the City has agreed to sell to Developer certain real property located on the east side of Jefferson Street between Palm Circle Drive and the Whitewater Channel, comprising of approximately 25,000 square feet, in the amount of \$1.00 per square foot, pursuant to the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of La Quinta, California as follows:

SECTION 1. That the above recitals are true and correct and incorporated herein.

SECTION 2. That the City Council of the City of La Quinta, California, hereby finds and determines that the sale of said property is in the best interests of the citizens of the City of La Quinta.

SECTION 3. The Agreement ("Exhibit 1"), a copy of which is on file with the City Clerk, is hereby approved. The City Council authorizes and directs the City Manager and City Attorney to make any final modifications to the Agreement that are consistent with the substantive terms of the Agreement approved hereby, and to thereafter sign the Agreement on behalf of the City.

SECTION 4. The City Council authorizes and directs the City Manager to (i) sign such other and further documents, including but not limited to escrow instructions,

and (ii) take such other and further actions, as may be necessary and proper to carry out the terms of the Agreement.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City Council of the City of La Quinta held this 4th day of November, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DON ADOLPH, Mayor
City of La Quinta, California

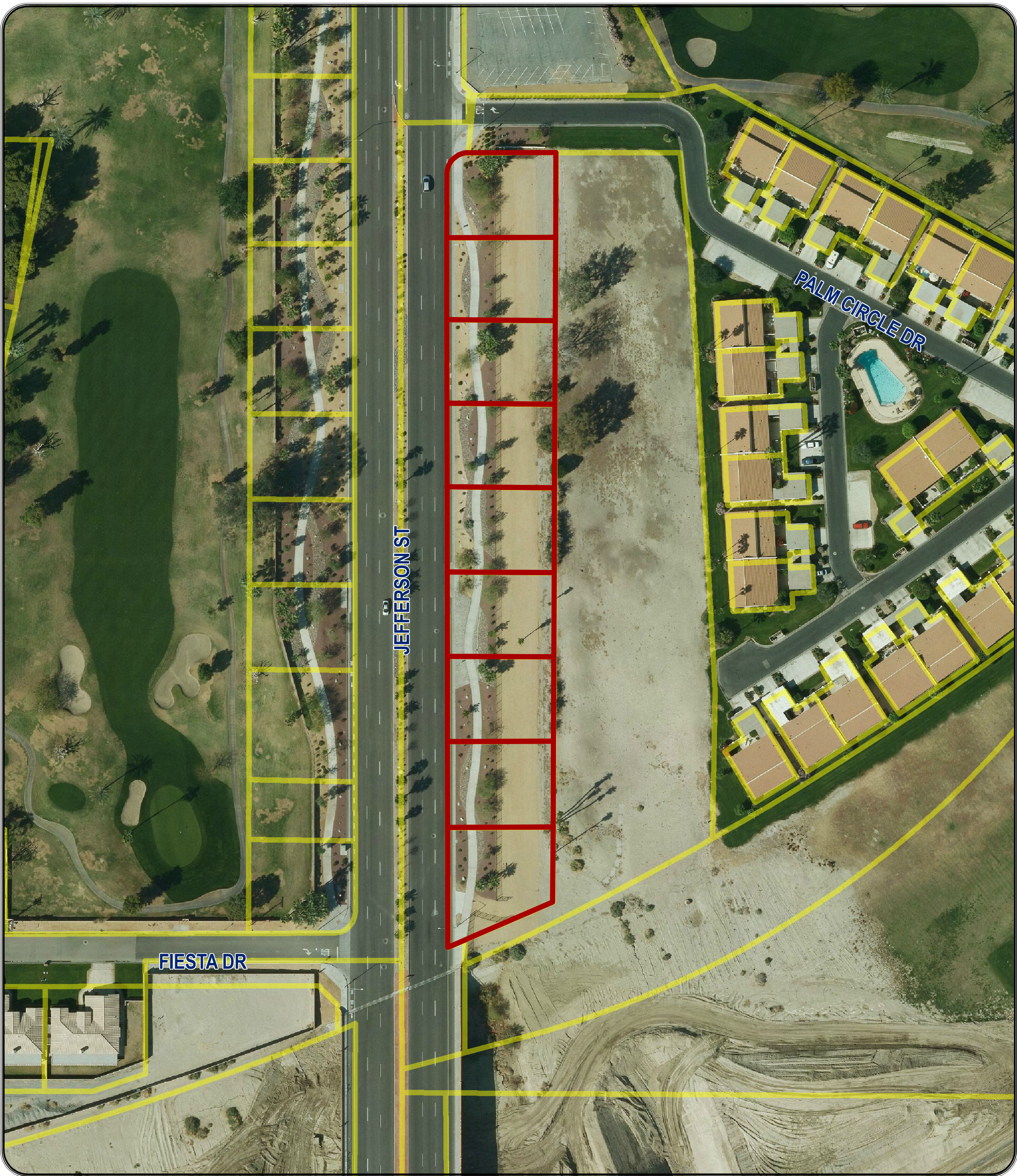
ATTEST:

SUSAN MAYSELS, City Clerk
City of La Quinta, California

(CITY SEAL)

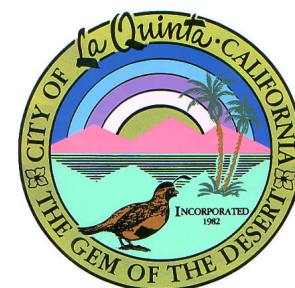
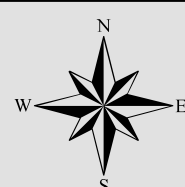
APPROVED AS TO FORM:

WILLIAM H. IHRKE, City Attorney
City of La Quinta, California



Desert Land Holdings, LLC Acquisition

October 28, 2014



City of La Quinta
Planning Division
Community Development Department

ATTACHMENT 2

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS
BY AND BETWEEN THE
CITY OF LA QUINTA
("SELLER")
AND
DESERT LAND HOLDINGS L.L.C.
("BUYER")**

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS ("**Agreement**") is made and entered into as of 10/21/, 2014 ("Effective Date") by and between the CITY OF LA QUINTA, a Municipal Corporation ("**Seller**"), and DESERT LAND HOLDINGS L.L.C., a California limited liability company ("**Buyer**").

RECITALS:

A. Seller is the owner of approximately 25,114 square feet of unimproved real property located generally at the eastern 30 feet of those properties with Assessor's Parcel Numbers ("APNs") 600080001, 600080002, 600080003, 600080004, 600080005, 600080006, 600080007, 600080008, and 600080009, in the City of La Quinta, County of Riverside, State of California, as depicted by the shaded area on the aerial map attached hereto as Exhibit "A" and incorporated herein by this reference (the "**Property**"). Buyer is also the current owner of that certain real property located directly east and adjacent to the Property [with APN 600080041, also as depicted in Exhibit "A" (the "**Buyer-Owned Real Property**").

B. Buyer desires to purchase the Property from Seller and Seller desires to sell the Property to Buyer, on the terms and conditions set forth herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, which are a substantive part of this agreement and incorporated by reference, and mutual covenants herein contained, the parties hereto agree as follows:

1. **PURCHASE PRICE.**

1.1 Amount. Subject to the terms of this Agreement, Buyer hereby agrees to purchase the Property from Seller, and Seller agrees to sell the Property to Buyer, for the purchase price of \$1.00/square foot for the Property ("**Purchase Price**"), to be calculated after subdivision of the land pursuant to this Agreement.

1.2 Payment of Purchase Price. Within five (5) days after the "Opening of Escrow" Buyer shall deposit with "Escrow Holder" (as those terms are defined in Section 2.1 below) in "Good Funds" (as used in this Agreement, the term "**Good Funds**" shall mean a confirmed wire transfer of immediately available funds, cashier's or certified check drawn on or issued by the office of a financial institution located in Riverside County, or cash) (i) the sum of One Hundred Dollars (\$100) (the "**Independent Contract Consideration**") as consideration for Seller's execution and delivery of this Agreement and Buyer's right to approve or disapprove any Buyer contingencies set forth in this Agreement; and (ii) the sum of Five Thousand Dollars (\$5,000) as a good faith deposit (the "**Deposit**").

In the event the "Escrow" (as that term is defined in Section 2.1) closes, Escrow Holder shall apply the Independent Contract Consideration and Deposit towards the Purchase Price. In the event the Escrow is terminated and fails to close, for any reason other than a default hereunder by Seller, Escrow Holder shall promptly, but no later than five (5) days after said termination, release the Independent Contract Consideration to Seller.

In the event the Escrow is terminated and fails to close, for any reason other than a default hereunder by Buyer, Escrow Holder shall promptly, but no later than five (5) days after said termination, return the Deposit to Buyer.

On or before 5:00 p.m. on the business day preceding the "Closing Date" (as that term is defined in Section 5.1) or such earlier time as required by Escrow Holder in order to close Escrow on the Closing Date, Buyer shall deposit with Escrow Holder in Good Funds the Purchase Price, less the Deposit and Independent Contract Consideration, and such additional funds as may be required to meet Buyer's portion of the closing costs as hereinafter provided.

2. ESCROW.

2.1 Opening of Escrow. Closing of the sale of the Property shall take place through an escrow ("**Escrow**") to be established within three (3) business days after the execution of this Agreement by the parties hereto, with Fidelity National Title escrow (Kim Larby) located at 40004 Cook Street, Suite 2, Palm Desert, CA 92211 (760) 776-6782, or such other escrow company as may be agreed upon by the Buyer and Seller as the servicer of the Escrow ("**Escrow Holder**"). The opening of the Escrow (the "**Opening of Escrow**") shall be deemed to be the date that a fully executed copy of this Agreement is delivered to the Escrow Holder. Escrow Holder is instructed to notify Buyer and Seller in writing of the date of the Opening of Escrow.

2.2 Escrow Instructions. This Agreement, once deposited in Escrow, shall constitute the joint escrow instructions of Buyer and Seller to Escrow Holder. Additionally, if Escrow Holder so requires, Buyer and Seller agree to execute the form of escrow instructions that Escrow Holder customarily requires in real property escrows administered by it. In the event of any conflict or inconsistency between Escrow Holder's standard instructions and the provisions of this Agreement, the provisions of this Agreement shall supersede and be controlling.

3. SUBDIVISION

3.1 Subdivision of Currently Owned City Parcels. As of the Effective Date, the Seller owns all of the real properties with the following APNs: 600080001, 600080002, 600080003, 600080004, 600080005, 600080006, 600080007, 600080008, and 600080009, in the City of La Quinta, County of Riverside, State of California, as depicted in Exhibit "A" (each, a "**Pre-Subdivided City-Owned Parcel**" and, collectively, the "**Pre-Subdivided City-Owned Parcels**"). In order to enable Seller to sell to Buyer the Property, Buyer shall apply for and use its best efforts to obtain from the City of La

Quinta's Planning Commission ("**Planning Commission**") and, if applicable, the City of La Quinta's City Council ("**City Council**"), a subdivision of the Pre-Subdivided City-Owned Parcels in accordance with applicable laws, including but not limited to the Subdivision Map Act (Government Code Section 66410 et seq.), the City of La Quinta Municipal Code, and any and all state and local implementing rules, regulations, and policies. Buyer shall apply for a subdivision of the Pre-Subdivided City-Owned Parcels so that a separate legal parcel or parcels result for the Property and there are separate legal parcels for the remainder of the Pre-Subdivided City-Owned Parcels (each, a "**Remainder City-Owned Parcel**" and, collectively, the "**Remainder City-Owned Parcels**"). In the event that the Planning Commission and, if applicable, City Council approve the subdivision of the Pre-Subdivided City-Owned Parcels pursuant to this Agreement and applicable laws, the subdivision map creating the separate legal parcels for the Property and the Remainder City-Owned Parcels shall be recorded in the Official Records of the Office of the County Recorder of Riverside, California ("**Official Records**"), and the legal description for the Property shall be based upon that recorded subdivision map and attached to the grant deed in the form of the attached Exhibit "B" conveying fee title to the Property to Buyer ("**Grant Deed**").

3.2 Condition to Closing Escrow; Not Subject to Waiver or Noncompliance. Approval and recordation of a final subdivision map or similar instrument in the Official Records, which subdivides the Property and the Remainder City-Owned Parcels into separate legal parcels shall be a condition to the Close of Escrow as provided in this Agreement. Notwithstanding any provisions in this Agreement to the contrary, the condition to closing in this Section 3.2 may not be waived by either party and must be satisfied prior to any conveyance by Seller to Buyer of the Property. Buyer shall have the obligation to record or cause to be recorded the final subdivision map or similar instrument in the Official Records.

3.3 Infrastructure Improvements. Buyer acknowledges and agrees that, as part of the subdivision process set forth in Section 3.1 of this Agreement, Seller may condition as part of the approval for the subdivision of the Property and the Remainder City-Owned Parcels into separate legal parcels from the Pre-Subdivided City-Owned Parcels a requirement that the Buyer plan for, develop, and construct the sewer infrastructure necessary to allow for the future connection of existing units within the Westward Isle community to a sewer line that services the Property and the Buyer-Owned Real Property, which condition of approval may include but not be limited to the construction of a sewer line stub up to the edge of the Property at such time when the Property is developed. Buyer shall not object to or challenge such a condition of approval as part of the subdivision map process.

3.4 Reservation of Discretion. Nothing in this Agreement shall obligate the Planning Commission, City Council, or any other body with discretionary review or legislative authority over the Pre-Subdivided City-Owned Parcels, Property, or Remainder City-Owned Parcels, to approve or be deemed to have approved any of the land use entitlements as required or referenced in this Agreement, including but not limited to a subdivision map of the Pre-Subdivided City-Owned Parcels. Buyer expressly acknowledges and agrees that the Planning Commission, City Council, and

any other body with discretionary review or legislative authority over the Pre-Subdivided City-Owned Parcels have the discretionary power to approve, approve with conditions, or deny any or all land use entitlements as may be required by law, and nothing in this Agreement removes or limits that discretionary power. Buyer further acknowledges and agrees that the Close of Escrow may be delayed or infeasible in the event that any land use entitlement as required by this Agreement is not obtained, and a failure to obtain any land use entitlement shall not be an event of default on the part of either Buyer or Seller. Buyer shall have no rights or remedies against Seller in the event that any land use entitlement as required as a condition to Closing Escrow is not obtained except for the termination of the Escrow and this Agreement, with the return of the Deposit pursuant to Section 1.2 above.

3.5 Date for Completion of Subdivision Contingencies. Buyer shall have until the Closing Date (as defined in Section 5.1 below) to satisfy the subdivision contingencies set forth in Sections 3.1, 3.2, and 3.3 above.

4. DUE DILIGENCE.

4.1 Due Diligence. As used herein, the term “**Due Diligence Period**” shall refer to a period of time to expire upon the date that is one hundred eighty (180) days after the Opening of Escrow. Buyer’s obligation to consummate the transactions contemplated by this Agreement is subject to and conditioned upon Buyer’s approval, deemed approval, or waiver of the right to approve of the following contingencies set forth in this Section 4.1 (collectively, the “**Contingencies**”):

4.1.1 Title/Survey. Within five (5) days after the Effective Date, Seller shall deliver to Buyer a preliminary title report prepared by Lawyers Title Company (Joe Morano), with office number at (760) 677-9317, or such other title company as may be agreed upon by the Buyer and Seller (“**Title Company**”) describing the state of title of the Property together with copies of all underlying documents (collectively the “**Preliminary Title Report**”). Notwithstanding anything herein to the contrary, Seller shall be obligated to remove all monetary encumbrances against the Property excluding non-delinquent real property taxes and assessments. Buyer shall notify Seller in writing of any objections Buyer may have to title exceptions contained in the Preliminary Title Report no later than the date which is fifteen (15) days after its receipt of the Preliminary Title Report (“**Buyer’s Objection Notice**”). Buyer’s approval or disapproval of the matters set forth in the Preliminary Title Report may be granted or withheld in Buyer’s sole and absolute discretion. Buyer’s failure to provide Seller with a Buyer’s Objection Notice within said period shall constitute Buyer’s approval of all exceptions to title shown on the Preliminary Title Report. Seller shall have a period of ten (10) days after receipt of Buyer’s Objection Notice in which to deliver written notice to Buyer (“**Seller’s Notice**”) of Seller’s election to either (i) agree to remove the objectionable items on the Preliminary Title Report prior to the “Close of Escrow” (as that term is defined in Section 5.1 below) or (ii) decline to remove any such title exceptions and terminate Escrow and the obligations of Buyer and Seller to purchase and sell the Property under this Agreement. Seller’s failure to provide Buyer with Seller’s Notice within said period shall constitute Seller’s election to decline to remove such title exceptions and to terminate

Escrow and the obligations of Buyer and Seller to purchase and sell the Property under the Agreement. If Seller notifies Buyer of its election to terminate the Escrow and this Agreement rather than remove the objectionable items on the Preliminary Title Report or is deemed to have so elected, Buyer shall have the right, by written notice delivered to Seller within five (5) days after Buyer's receipt of Seller's Notice, to agree to accept the Property subject to the objectionable items, in which event Seller's election to terminate shall be of no effect, and Buyer shall take title at the Close of Escrow subject to such objectionable items without any adjustment to or credit against the Purchase Price. All exceptions to title shown on the Preliminary Title Report, other than those which Seller may agree to remove pursuant to this Section 4.1.1, shall be deemed to have been approved by Buyer unless Seller is notified otherwise in writing.

Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions or which is issued as a result of the recording of the final subdivision map or similar instrument creating a separate legal parcel for the Property from the Pre-Subdivided City-Owned Parcels as set forth in this Agreement, the foregoing rights of review and approval shall also apply to said amendment or supplement; provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) days following receipt of notice of such additional exceptions. The process set forth above for Buyer's review and Seller's response shall apply to any review and response with respect to any amendment or supplement to the Preliminary Title Report, and the "Closing" (as that term is defined in Section 5.1 below) shall be extended for such period as is necessary to allow for that review and response process to be completed.

4.1.2 Environmental Condition.

(a) During the Due Diligence Period, Seller shall permit Buyer and Buyer's directors, engineers, analysts, officers, employees, agents, contractors, subcontractors, consultants, representatives, attorneys and advisors (collectively, the "**Buyer Representatives**"), at the sole cost and expense of Buyer, to conduct physical inspections of the Property, including the site work, soil, subsurface soils, drainage, seismic and other geological and topographical matters, location of asbestos, toxic substances, hazardous materials or wastes, if any, and any other investigations as Buyer deems prudent with respect to the physical condition of the Property in order to determine the Property's suitability for Buyer's intended development. In no event shall Buyer conduct any intrusive testing procedures on the Property without the prior written consent of Seller, which consent shall not be unreasonably withheld. Such investigations may be made by Buyer and/or Buyer Representatives during any normal business hours. Buyer shall also have the right to investigate all matters relating to the zoning, use and compliance with other applicable laws, codes, and ordinances which relate to the use and occupancy of the Property. Seller shall cooperate to assist Buyer in completing such inspections and special investigations at no cost or expense to Seller. Such inspections and investigations shall be

conducted only upon no less than forty-eight (48) hours' notice to Seller and shall be conducted at such times and in such a manner as to minimize any disruption to the Property. Seller shall have the right, but not the obligation, to accompany Buyer during such investigations and/or inspections.

(b) As a condition to any such entry, Buyer shall (i) conduct all work or studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Property during or after such investigation; (ii) comply with all applicable laws and governmental regulations; (iii) keep the Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this paragraph; (iv) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the property in the amounts required by the State of California; (v) provide to Seller prior to initial entry a certificate of insurance evidencing that Buyer and/or the persons entering the Property have procured and have in effect an all-risk public liability insurance policy meeting the following requirements: (1) the insurance shall be written on a per occurrence and not claims-made basis; (2) the amount of insurance shall be a combined single limit of not less than One Million Dollars (\$1,000,000.00) with a deductible or self-insured retention amount of not more than Ten Thousand Dollars (\$10,000); (3) the policy shall name or be endorsed to the City of La Quinta (Seller) and its officers, officials, members, employees, agents, and representatives (collectively, "**Seller & Seller Personnel**") as additional insureds; (4) the insurance shall not contain any special limitations on the scope of protection afforded to Seller & Seller Personnel; (5) the policy shall not be canceled by the insurer or Buyer unless there is a minimum of thirty (30) days prior written notice to Seller; (6) the insurer shall waive subrogation rights against the Seller & Seller Personnel; and (7) the insurance shall be primary insurance and not contributory with any insurance the Seller & Seller Personnel may have; and (8) the insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability; and (vi) following Buyer's entry, repair any and all damage to the Property caused by such inspections or investigations in a timely manner.

(c) Buyer shall promptly pay and discharge all demands for payment relating to Buyer's entry on and investigation of the Property and take all other steps to avoid the assertion of claims of lien against the Property. In the event a claim of lien is recorded by reason of Buyer's entry on the Property, Buyer, within fifteen (15) days of such recordation, shall either (i) record or deliver a surety bond sufficient to release such claim or lien in accordance with applicable law; or (ii) provide Seller with such other assurance as Seller may require for the payment of the claim

or lien. Seller may elect to record and post notices of non-responsibility from time to time on and about the Property.

(d) Buyer agrees to indemnify, defend, protect, and hold Seller & Seller Personnel and the Property, free and harmless from any and all loss, liability, claims, action, suit, proceeding, deficiency, fine, penalty, damages and expenses (including, but not limited to, reasonable attorneys' fees, expert witness fees, and costs) arising directly or indirectly from: (i) the exercise of said entry, (ii) Buyer's failure to comply with the conditions to Buyer's entry onto the Property provided herein, and (iii) the presence of any Hazardous Materials (as defined in Section 13 herein) on, under, in or about the Property occurring prior to or after the Close of Escrow resulting from the activities of Buyer or Buyer Representatives on the Property prior to the Close of Escrow. Such undertaking of indemnity shall survive Close of Escrow or the termination of this Agreement for any reason.

(e) Prior to expiration of the Due Diligence Period, Buyer shall notify Seller in writing ("**Buyer's Property Objection Notice**") of any objections Buyer may have to any physical or environmental conditions of the Property (the "**Disapproved Property Matters**"). Buyer's approval or disapproval of the physical and environmental conditions of the Property may be granted or withheld in Buyer's sole and absolute discretion. Buyer's failure to timely provide Seller with a Buyer's Property Objection Notice shall constitute Buyer's approval of the condition of the Property. Seller shall have a period of fifteen (15) days after receipt of Buyer's Property Objection Notice in which to deliver written notice to Buyer ("**Seller's Response**") of Seller's election to either (i) agree to remove the objectionable items prior to the Close of Escrow, or (ii) decline to remove the objectionable items and terminate Escrow and the obligations of Buyer and Seller to purchase and sell the Property under this Agreement. Seller's failure to provide Buyer with Seller's Response within said period shall constitute Seller's election to terminate Escrow and the obligations of Buyer and Seller to purchase and sell the Property under this Agreement. If Seller notifies Buyer of its election to terminate Escrow rather than remove the objectionable items or if Seller is deemed to have elected to terminate Escrow rather than remove the objectionable items, Buyer shall have the right, by written notice delivered to Seller within five (5) days after Buyer's receipt of Seller's Response, to agree to accept the Property subject to the objectionable items, in which event Seller's election to terminate Escrow shall be of no effect, and Buyer shall take title at the Close of Escrow subject to such objectionable items without any adjustment to or credit against the Purchase Price. Buyer's inspections and investigations of the Property shall be conducted upon the terms and conditions set forth in this Agreement.

4.2 Confidentiality. Any and all information made available to Buyer under this Agreement or discovered by Buyer during its investigation of the Property shall be treated as confidential by Buyer and such information shall not be disclosed prior to the Close of Escrow without the prior written consent of Seller; provided, however, that Buyer may disclose said information (i) to any attorney, accountant, engineer or consultant providing services to Buyer in the normal and ordinary course of business, (ii) to a court or any other official body if said confidential information is subpoenaed by that court or official body; provided that Buyer notifies Seller, in writing, of the receipt of such subpoena, and (iii) if required to disclose such information pursuant to the California Public Records Act or other applicable law. Seller shall be permitted to pursue, at Seller's cost, such confidentiality order with or without Buyer. Additionally, if this Agreement terminates for any reason whatsoever, Buyer shall return to Seller all written information delivered by Seller to Buyer pursuant hereto, and all copies of such information made by Buyer, within ten (10) days after termination hereof. The provisions of this Section 4.2 shall survive any termination of this Agreement.

5. CLOSE OF ESCROW.

5.1 Close of Escrow; Closing Date. Provided that all of the conditions of this Agreement precedent to the Close of Escrow have been satisfied (or waived by the appropriate party) prior to or on the Closing Date (as hereinafter defined), the Closing (as hereinafter defined) of this transaction for the sale and purchase of the Property shall take place on the date which is five (5) days after the date on which all of Buyer's Conditions to Closing and all of Seller's Conditions to Closing have been satisfied (or waived by the appropriate party); provided, however, in no event shall the Closing occur, if at all, later than the date which is one hundred eighty (180) days after the Opening of Escrow ("**Closing Date**"), unless Buyer and Seller mutually agree to extend, in which case that mutually agreed upon date shall be the Closing Date. The terms "**Close of Escrow**" and the "**Closing**" are used herein to mean the time Seller's grant deed conveying fee title to the Property to Buyer is recorded in the Official Records. If Escrow is not in a condition to close by the Closing Date, either party not then in default hereunder may, upon five (5) days advance written notice to the other party and Escrow Holder, elect to terminate this Agreement and the Escrow. No such termination shall release either party then in default from liability for such default. If neither party so elects to terminate this Agreement and the Escrow, Escrow Holder shall close the Escrow as soon as possible.

5.2 Recordation; Release of Funds and Documents. Escrow Holder is directed, on the Closing Date, to record in the Official Records, the following documents in the order listed: (i) the final subdivision map or similar instrument creating a separate legal parcel for the Property and separate legal parcels for the Remainder City-Owned Parcels, if such final subdivision map or similar instrument has not previously been recorded in the Official Records; (ii) the Grant Deed; and (iii) such other and further documents as may be directed jointly by Buyer and Seller.

Upon the Closing, Escrow Holder shall deliver (i) the Purchase Price, less Seller's closing costs, to Seller, and (ii) conformed copies of all recorded documents to both Buyer and Seller.

5.3 Escrow Cancellation Charges. If the Escrow does not close due to a default by one of the parties, the defaulting party shall bear all "Escrow Cancellation Charges" (as that term is defined below). If the Close of Escrow does not occur for any reason other than the default of a party, then Buyer and Seller shall each pay fifty percent (50%) of any Escrow Cancellation Charges. As used herein, "**Escrow Cancellation Charges**" means all fees, charges and expenses incurred by Escrow Holder or third parties engaged by Escrow Holder, as well as all expenses related to the services of the Title Company in connection with the issuance of the Preliminary Title Report and other title matters.

6. DELIVERY OF DOCUMENTS REQUIRED FROM BUYER AND SELLER.

6.1 Buyer's Obligations. Buyer agrees that on or before 5:00 p.m. of the last business day immediately preceding the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder the following:

- (a) The Purchase Price, less the Deposit and Independent Contract Consideration;
- (b) Any and all additional funds, instruments or other documents required from Buyer (executed and acknowledged where appropriate) as may be reasonably necessary in order for the Escrow Holder to comply with the terms of this Agreement.

6.2 Seller's Obligations. Seller agrees that on or before 5:00 p.m. of the last business day immediately preceding the Closing Date, Seller shall deposit or cause to be deposited with Escrow Holder each of the following:

- (a) The executed and acknowledged Grant Deed;
- (b) A Certificate of Non-Foreign Status (the "**Non-Foreign Affidavit**") executed and acknowledged by Seller substantially in the form attached hereto as Exhibit "C"; and
- (c) All other funds, items, and instruments required from Seller (executed and acknowledged where appropriate) as may be reasonably necessary in order for Escrow Holder to comply with the provisions of this Agreement.

7. TITLE INSURANCE POLICY.

7.1 Title Policy. At the Closing Date, the Title Company, as insurer, shall issue an ALTA owner's standard coverage policy of title insurance ("**Title Policy**"), in

favor of Buyer, as insured, with liability in the amount of the Purchase Price, subject to the following:

- (a) Non-delinquent real property taxes and assessments;
- (b) Title exceptions approved or deemed approved by Buyer pursuant to Section 4.1.1 above;
- (c) Title exceptions, if any, resulting from Buyer's entry onto the Property pursuant to the provisions of Section 4.1.2 above;
- (d) Any other exceptions approved by Buyer; and
- (e) The standard printed conditions and exceptions contained in the ALTA standard owner's policy of title insurance regularly issued by the Title Company.

7.2 Payment for Title Policy. Seller shall be responsible for the charges for the Title Policy with coverage up to the amount of the Purchase Price. Buyer may, at its election, request an ALTA extended policy of title insurance. Buyer shall pay the difference for the charges between the premium for the extended coverage title policy and the premium for the standard coverage title policy that Seller is responsible for hereunder and the cost for any endorsements requested by Buyer.

8. REAL PROPERTY TAXES. Buyer shall pay all property taxes and assessments. The Property is currently exempt from the payment of property taxes and assessments due to Seller's status as a public agency. In the event, however, property taxes or assessments are mistakenly assessed against the Property after the Closing for any period prior to the Closing, Buyer shall be responsible for timely payment thereof but Buyer may apply for a refund for that portion of taxes and assessments allocated to any period prior to the Closing, in accordance with the applicable provisions of the Revenue and Taxation Code. Seller shall cooperate with Buyer, at no cost to Seller, to effect such refund.

9. CONDITIONS PRECEDENT TO CLOSING.

9.1 Conditions Precedent to Buyer's Obligations. The obligations of Buyer under this Agreement to purchase the Property and close the Escrow shall be subject to the satisfaction or signed written waiver (except for condition (a), which may not be waived) by Buyer of each and all of the following conditions precedent (collectively "**Buyer's Conditions to Closing**"):

- (a) The final subdivision map or similar instrument creating a separate legal parcel for the Property from the Pre-Subdivided City-Owned Parcels has been recorded in the Official Records;

- (b) The legal description of the Property based on the recorded subdivision map or similar instrument is attached to the executed and acknowledged Grant Deed;
- (c) On the Closing Date, the Title Company shall be irrevocably committed to issue the Title Policy pursuant to Section 7 above insuring fee title to the Property as being vested in Buyer;
- (d) Escrow Holder holds all instruments and funds required for the Closing, including, but not limited to, the fully executed and acknowledged Grant Deed, and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement;
- (e) Except as otherwise permitted by this Agreement, all representations and warranties by the Seller in this Agreement shall be true on and as of the Closing Date as though made at that time and all covenants of Seller pursuant to this Agreement shall have been fulfilled by the Closing Date;
- (f) Seller is not in default of any term or condition of this Agreement.

In the event that any of Buyer's Conditions to Closing are not satisfied, deemed satisfied, or waived in a writing signed by Buyer prior to the expiration of the applicable period for satisfaction or waiver, Buyer may terminate this Agreement.

9.2 Conditions Precedent to Seller's Obligations. The obligations of Seller under this Agreement shall be subject to the satisfaction or signed written waiver (except for condition (a), which may not be waived) by Seller of each and all of the following conditions precedent ("**Seller's Conditions to Closing**"):

- (a) The final subdivision map or similar instrument creating a separate legal parcel for the Property from the Pre-Subdivided City-Owned Parcels has been recorded in the Official Records;
- (b) The legal description of the Property based on the recorded subdivision map or similar instrument is attached to the executed and acknowledged Grant Deed;
- (c) Escrow Holder holds the Purchase Price and all other instruments and funds required for the Closing and will deliver to Seller the instruments and funds, including, but not limited to, the Purchase Price (less Seller's closing costs) accruing to Seller pursuant to this Agreement;
- (d) Except as otherwise permitted by this Agreement, all representations and warranties by the Buyer in this Agreement shall be true on and as of the Closing Date as though made at that

time and all covenants of Buyer pursuant to this Agreement shall have been fulfilled by the Closing Date;

- (e) Buyer is not in default of any term or condition of this Agreement.

In the event that any of Seller's Conditions to Closing are not satisfied, deemed satisfied, or waived in a writing signed by Seller prior to the expiration of the applicable period for satisfaction or waiver, Seller may terminate this Agreement.

10. POSSESSION. Possession of the Property shall be delivered by Seller to Buyer on the Closing Date.

11. ALLOCATION OF COSTS.

11.1 Buyer's Costs. Buyer shall pay the following costs:

- (a) One Hundred percent (100%) of Escrow Holder's escrow fee;
- (b) Buyer's own attorney's fees incurred in connection with this Agreement and the transactions contemplated hereby;
- (c) All charges for recording the Grant Deed, if any;
- (d) The premium difference between the ALTA extended policy of title insurance and the ALTA standard coverage policy of title insurance if Buyer requests an extended policy; and
- (e) Any additional title insurance coverage Seller is not required to pay for plus any title endorsements requested by Buyer.

11.2 Seller's Costs. Seller shall pay:

- (a) Seller's own attorney's fees in connection with this Agreement and the transactions contemplated hereby;
- (b) Any documentary transfer taxes associated with the conveyance;
- (c) Fifty percent (50%) of all the charges for recording the Grant Deed, if any; and
- (d) The premium for the Title Policy that Seller is required to pay pursuant to this Agreement.

12. BUYER'S REPRESENTATIONS AND WARRANTIES.

12.1 Buyer's Representations, Warranties and Covenants. Buyer hereby makes the following representations and warranties to Seller, each of which is true in all respects as of the date hereof and shall be true in all respects on the Closing Date:

- (a) Buyer is duly organized and existing;
- (b) Buyer has the legal power, right, and authority to execute, deliver and perform Buyer's obligations under this Agreement and the documents executed and delivered by Buyer pursuant hereto;
- (c) All requisite action (corporate, trust, partnership, or otherwise) has been taken by Buyer in connection with entering into this Agreement and the instruments referenced herein and the consummation of the transactions contemplated hereby. No consent is required which has not been obtained to permit Buyer to enter into this Agreement and consummate the transaction hereby; and
- (d) The entering into this Agreement does not violate any provision of any other agreement to which Buyer is bound.

12.2 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer, each of which is true in all respects as of the date hereof and shall be true in all respects on the Closing Date:

- (a) Seller is duly organized and existing;
- (b) Seller has the legal power, right, and authority to execute, deliver and perform Seller's obligations under this Agreement and the documents executed and delivered by Seller pursuant hereto;
- (c) All requisite action has been taken by Seller in connection with entering into this Agreement and the instruments referenced herein and the consummation of the transactions contemplated hereby. No consent is required which has not been obtained to permit Seller to enter into this Agreement and consummate the transactions contemplated hereby;
- (d) To Seller's actual knowledge, the entering into this Agreement does not violate any provision of any other agreement to which Seller is bound;
- (e) To Seller's actual knowledge, there is no pending or threatened litigation, lawsuit or administrative proceeding which would adversely affect the Property;
- (f) To Seller's actual knowledge, there are no contracts or leases affecting the Property and no agreements entered into, by or under Seller which will survive the Close of Escrow; and
- (g) Seller has no knowledge of the presence of any Hazardous Materials on the Property, or any portion thereof, and Seller has not

been advised or notified by any third parties, prior owners of the Property, or any federal, state or local governmental agency, of the presence of any Hazardous Materials on the Property.

12.3 Seller's Knowledge. Throughout this Agreement, terms such as "to Seller's actual knowledge," "Seller has no actual knowledge," or like phrases mean the actual present and conscious awareness or knowledge, without a duty to inquire or investigate, of the City Manager of the City of La Quinta, or the Planning Director of the City of La Quinta.

12.4 Change in Circumstances. In the event Seller becomes aware of a change in circumstance during the term of the Escrow which would cause any of the representations or warranties of Seller under this Agreement to be untrue, Seller shall advise Buyer of such change in circumstance in writing within five (5) business days from Seller's discovery thereof. Buyer shall then have five (5) business days from receipt of such notice from Seller to deliver written notice to Seller of Buyer's election to either (i) terminate this Agreement, or (ii) waive objection to such change in circumstance and to accept title to the Property subject to such change in circumstance. Buyer's failure to notify Seller in writing within said five (5) business day period shall conclusively be deemed Buyer's election to waive objection to such change in circumstance and to proceed to close this Escrow subject to such change in circumstance.

13. "AS-IS" PURCHASE AND SALE; RELEASE AND WAIVER OF CLAIMS.

With the exception of the limited representations and warranties expressly set forth in Section 12 of this Agreement, Seller has not at any time made and is not now making, and Seller specifically disclaims, any representations or warranties of any kind or character, express or implied, with respect to the Property, or any improvements thereon, including, but not limited to, representations or warranties as to (a) matters of title, (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the existence or lack thereof of Hazardous Materials (as defined below) in, on, under or in the vicinity of the Property, or migrating to or from the Property, either in soil, vapors or surface water or groundwater, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and geologic faults and the resulting damage of past and/or future faulting, (d) whether, and the extent to which, the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) the permitted uses and restrictions on uses on the Property, (k) usages of adjoining property, (l) access to the Property or any

areas, as Buyer deems necessary, in accordance with law. Buyer, therefore, individually and collectively, for itself and its members, partners, officers, directors, employees, agents, successors, assigns, and all entities related to any of the foregoing, and on behalf of all persons claiming any interest in the Property or this Agreement, including but not limited to any and all future owners, lessees, and/or operators, of the Property and their successors, hereby expressly waives, releases, discharges and forever relinquishes any and all claims, rights of action, causes of action, rights and/or remedies Buyer has or hereafter may have, whether known or unknown, fixed or contingent, against Seller and Seller's members, officers, officials, attorneys, employees, representatives, and agents (a) regarding any matters affecting the Property and any condition of the Property whatsoever; and (b) regarding: (i) the existence or potential existence of any Hazardous Materials in, on, under, within or migrating to or from the Property, either in soil, vapor, surface water or groundwater, and (ii) any violations or alleged violations of any Environmental Laws regarding the Property.

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 ("SECTION 1542"), WHICH IS SET FORTH BELOW:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

BUYER ACKNOWLEDGES AND AGREES THAT IT MAY HEREAFTER DISCOVER FACTS OR LAW DIFFERENT FROM OR IN ADDITION TO THOSE WHICH IT NOW BELIEVES TO BE TRUE WITH RESPECT TO THE RELEASE OF CLAIMS. BUYER ACKNOWLEDGES AND AGREES THAT THE RELEASE IT IS PROVIDING SHALL REMAIN EFFECTIVE IN ALL RESPECTS NOTWITHSTANDING SUCH DIFFERENT OR ADDITIONAL FACTS OR LAW OR ANY PARTIES' DISCOVERY THEREOF. BUYER SHALL NOT BE ENTITLED TO ANY RELIEF IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO ANY DAMAGES OR ANY RIGHT OR CLAIM TO SET ASIDE OR RESCIND THIS AGREEMENT OR ANY OF THE ATTACHMENTS OR EXHIBITS HERETO.

BY INITIALING BELOW, BUYER HEREBY WAIVES AND RELEASES ANY AND ALL RIGHTS PROVIDED UNDER THE PROVISIONS OF SECTION 1542 AND ALL SIMILAR OR RELATED STATUTES THERETO, IN CONNECTION WITH THESE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

BUYER'S INITIALS:  _____

Buyer acknowledges and agrees that the disclaimers, waivers and releases along with the other agreements set forth in this Section are all an integral part of this

Agreement, and Seller would not have agreed to enter into this Agreement without such terms, and that all such terms shall survive the Close of Escrow.

As used in this Agreement, the term "**Hazardous Material(s)**" includes, without limitation, any hazardous or toxic material, substance, irritant, chemical, or waste, including without limitation (a) any material defined, classified, designated, listed or otherwise considered under any Environmental Law, including, without limitation, as defined in California Health & Safety Code Section 25260, as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "biohazardous waste," "pollutant," "toxic pollutant," "contaminant," "restricted hazardous waste," "infectious waste," "toxic substance," or any other term or expression intended to define, list, regulate or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment, (b) any material, substance or waste which is toxic, ignitable, corrosive, reactive, explosive, flammable, infectious, radioactive, carcinogenic or mutagenic, and which is or becomes regulated by any local governmental authority, any agency of the State of California or any agency of the United States Government, (c) asbestos, and asbestos containing material, (d) oil, petroleum, petroleum based products and petroleum additives and derived substances, (e) urea formaldehyde foam insulation, (f) polychlorinated biphenyls (PCBs), (g) freon and other chlorofluorocarbons, (h) any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources, (i) mold, fungi, viruses or bacterial matter, and (j) lead-based paint.

For the purposes of this Agreement, the term "**Environmental Laws**" means any and all federal, state and local laws, statutes, ordinances, orders, rules, regulations, guidance documents, judgments, governmental authorizations, or any other requirements of governmental authorities, as may presently exist, or as may be amended or supplemented, or hereafter enacted, relating to the presence, release, generation, use, handling, assessment, investigation, study, monitoring, removal, remediation, cleanup, treatment, storage, transportation or disposal of Hazardous Materials, or the protection of the environment or human, plant or animal health, including, without limitation, the following statutes and their underlying regulations, as they have been amended from time to time, and the following referenced common laws: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13000 et seq.), the Toxic Mold Protection Act (Cal. Health & Safety Code § 26100, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65 – Cal. Health & Safety Code § 25249.5 et seq.), the California Hazardous Waste Control Law (Cal. Health & Safety Code § 25100 et seq.), the Hazardous Materials Release Response Plans & Inventory Act (Cal. Health

& Safety Code § 25500 et seq.), the Carpenter-Presley-Tanner Hazardous Substances Account Act (California Health and Safety Code, Section 25300 et seq.), the California Underground Storage of Hazardous Substances Laws (Chapter 6.7 of Division 20 of the Cal. Health and Safety Code, §25280 et seq.) and the California common laws of nuisance, trespass, waste and ultra-hazardous activity.

14. DAMAGE, DESTRUCTION AND CONDEMNATION.

14.1 Risk of Physical Loss. Seller, prior to the Closing, shall promptly notify Buyer in writing of any fire, casualty, or other damage (other than de minimis damage) to the Property of which Seller has knowledge (as that term is defined below). In the event that the Property is damaged by fire, flood, earthquake or other casualty, Buyer may terminate this Agreement, provided notice of such termination is delivered to Seller within five (5) business days following the date Buyer learns of the occurrence of such casualty, and, provided further, that Buyer shall not have caused such casualty or other damage to the Property. If Buyer fails to terminate this Agreement pursuant to the foregoing sentence within said five (5) business day period, Buyer shall complete the acquisition of the Property, in which case Seller shall have the right to assign to Buyer the interest of Seller in all insurance proceeds relating to such damage. Seller shall consult with Buyer regarding any proposed settlement with the insurer and Buyer shall have the reasonable right of approval thereof. Seller shall hold such proceeds until the Close of Escrow. In the event this Agreement is terminated for any reason, Buyer shall have no right to any insurance proceeds. As used in this Section 14.1, the term "**knowledge**" shall mean the actual (not constructive or imputed) knowledge of Seller's City Manager, without any investigation or inquiry or duty of investigation or inquiry.

14.2 Condemnation. In the event that, prior to the Close of Escrow, any governmental entity shall commence any proceedings of or leading to eminent domain or similar type proceedings to take all or any portion of the Property, Buyer or Seller shall promptly meet and confer in good faith to evaluate the effect of such action on the purposes of this Agreement, and following such meeting, either Buyer or Seller may terminate this Agreement.

15. WAIVER OF DAMAGES; SPECIFIC PERFORMANCE. In the event a party defaults under this Agreement, the non-defaulting party's sole and exclusive remedy will be for specific performance of this Agreement. EACH PARTY HEREBY WAIVES ANY RIGHT TO PURSUE DAMAGES RESULTING FROM A DEFAULT OR BREACH OF THIS AGREEMENT, AND IN NO EVENT SHALL THE DEFAULTING PARTY BE LIABLE FOR DAMAGES FOR A DEFAULT OR BREACH OF DEFAULTING PARTY'S OBLIGATION UNDER THIS AGREEMENT, ALL OF WHICH RIGHTS ARE HEREBY WAIVED AND RELINQUISHED BY THE NON-DEFAULTING PARTY. The parties agree that the foregoing limitation on their respective remedies and measure of damages is reasonable under all of the circumstances of this Agreement, and is material consideration for the parties entering into this Agreement.

Seller's Initials

Buyer's Initials

Buyer shall defend, indemnify, assume all responsibility for, and hold the City, and the City's representatives, volunteers, officers, employees and agents, harmless from any and all claims, demands, damages, defense costs or liability of any kind (including attorney's fees and costs), that arise from this Agreement (other than those damages caused by the breach of the Agreement by City or by the negligence or willful misconduct of the City's representatives, officers, employees and agents) including, but not limited to, Buyer's failure to pay, if required, prevailing wages. The indemnification in this Section is in addition to all other indemnity provided for the benefit of the Seller in this Agreement and shall survive the Close of Escrow.

16. MISCELLANEOUS.

16.1 Assignment. This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns. Neither party to this Agreement may assign this Agreement or any interest or right hereunder or under the Escrow without the prior written consent and approval of the other party, which consent and approval may be withheld in the sole and absolute discretion of either party. No provision of this Agreement is intended nor shall in any way be construed to benefit any party not a signatory hereto or to create a third party beneficiary relationship.

16.2 Attorney's Fees. In the event of any action between Buyer and Seller seeking enforcement of any of the terms and conditions to this Agreement (including any attachment or exhibit to this Agreement), the Escrow, or otherwise in connection with the Property, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, including without limitation its expert witness fees and reasonable attorney's fees.

16.3 Notices. All notices under this Agreement shall be effective upon personal delivery, delivery by reputable overnight courier such as Federal Express that provides a receipt with the date and time of delivery, or three (3) business days after deposit in the United States mail, registered, certified, postage fully prepaid and addressed to the respective parties as set forth below or as to such other address as the parties may from time to time designate in writing:

To Seller: City of La Quinta
78-495 Calle Tampico
La Quinta, California 92253
Attn: City Manager

Copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
Attn: William H. Ihrke, Esq.

To Buyer: Desert Land Holdings L.L.C.
42-335 Washington Street, Suite F # 340
La Quinta, CA 92211
Attn: Jim Snellenberger, C.E.O. & President

16.4 Fair Meaning. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto.

16.5 Headings. The headings at the beginning of each numbered Section of this Agreement are solely for the convenience of the parties hereto and are not a part of this Agreement.

16.6 Choice of Laws; Litigation Matters. This Agreement shall be governed by the internal laws of the State of California and any question arising hereunder shall be construed or determined according to California law without regard to conflict of law principles. The Superior Court of the State of California in and for the County of Riverside, or such other appropriate court in such county, shall have exclusive jurisdiction of any litigation between the parties concerning this Agreement. Service of process on Seller shall be made in accordance with California law. Service of process on Buyer shall be made in any manner permitted by California law and shall be effective whether served inside or outside California.

16.7 Nonliability of Seller Officials. No officer, official, member, employee, agent, or representatives of Seller shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

16.8 Gender; Number. As used in this Agreement, masculine, feminine, and neuter gender and the singular or plural number shall be deemed to include the others wherever and whenever the context so dictates.

16.9 Survival. This Agreement and all covenants to be performed after the Closing, and, except as otherwise set forth herein, all representations and warranties contained herein shall survive the Closing Date and shall remain a binding contract between the parties hereto.

16.10 Time of Essence. Time is of the essence in this Agreement and in each and every term and provision hereof, it being understood that the parties hereto have specifically negotiated the dates for the completion of each obligation herein.

16.11 Waiver or Modification. A waiver of a provision hereof (which provision may be waived), or modification of any provision herein contained, shall be effective only if said waiver or modification is in writing, and signed by both Buyer and Seller. No waiver of any breach or default by any party hereto shall be considered to be a waiver of any breach or default unless expressly provided herein or in the waiver.

16.12 Broker's Fees. Seller and Buyer represent and warrant to the other that neither Buyer nor Seller has employed any real estate broker to represent its interest in this transaction. Each party agrees to indemnify, defend (with counsel of the indemnified party's choosing), and hold the other party free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorney's fees) in any manner connected with a claim asserted by any individual or entity for any broker's commission in connection with the conveyance of the Property arising out of agreements by the indemnifying party to pay any commission.

16.13 No Withholding Because Non-Foreign Seller. Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or an out-of-state seller under California Revenue and Tax Code Section 18805 and that it will deliver to Buyer on or before the Close of Escrow a Certificate of Non-foreign Status on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the regulations promulgated thereunder and a California Form 593-C.

16.14 Severability. If any term, covenant or condition of this Agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons, entities, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.15 Exhibits. The following exhibits are attached hereto and incorporated herein by this reference:

Exhibit "A"	Legal Description of Property
Exhibit "B"	Grant Deed
Exhibit "C"	Non-Foreign Affidavit

16.16 Covenants of Seller. Seller agrees that during the period between the Effective Date of this Agreement and the Closing Date:

(a) Seller shall maintain the Property in not less than the state of repair as that existing on the Effective Date (excepting ordinary wear and tear);

(b) Seller shall not convey, grant, lease, assign, mortgage, hypothecate, encumber, or otherwise transfer (on or off record) the Property or any interest therein;

(c) Seller shall not alter the physical condition of the Property or introduce or release, or permit the introduction or release, of any Hazardous Material in, from, under, or on the Property;

(d) Prior to Closing, Seller shall maintain Seller's existing insurance on the Property.

16.17 Covenant Against Discrimination. Buyer covenants that in its performance of this Agreement that it shall not discriminate against any person or group of persons on account of any impermissible classification including but not limited to race, color, creed, gender, religion, marital status, national origin, or ancestry.

16.18 Entire Agreement; Amendment. Except as set forth above, this Agreement and the attachments and exhibits incorporated herein contain the entire agreement of Buyer and Seller with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this Agreement may be amended or modified in any manner whatsoever except by an agreement in writing signed by duly authorized officers or representatives of each of the parties hereto.

16.19 Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect.

16.20 Facsimile Signatures. Signatures of the parties transmitted by facsimile shall be deemed binding. However, each party agrees to submit their original signature to the other party within five (5) business days after execution hereof.

[END -- SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Buyer and Seller each hereby represents that it has read this Agreement, understands it, and hereby executes this Agreement to be effective as of the day and year first written above.

CITY OF LA QUINTA,
a Municipal Corporation

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By: _____
City Attorney

"Buyer"

DESERT LAND HOLDINGS L.L.C, a California
limited liability company

By:  _____
Jim Snellenberger
Chief Executive Office & President

Fidelity National Title escrow (Kim Larby) located at 40004 Cook Street, Suite 2, Palm Desert, CA 92211 (760) 776-6782, agrees to act as Escrow Holder in accordance with the terms of this Agreement. All parties are aware that the Buyer in this transaction has an ownership interest in Escrow Holder.

FIDELITY NATIONAL TITLE ESCROW:

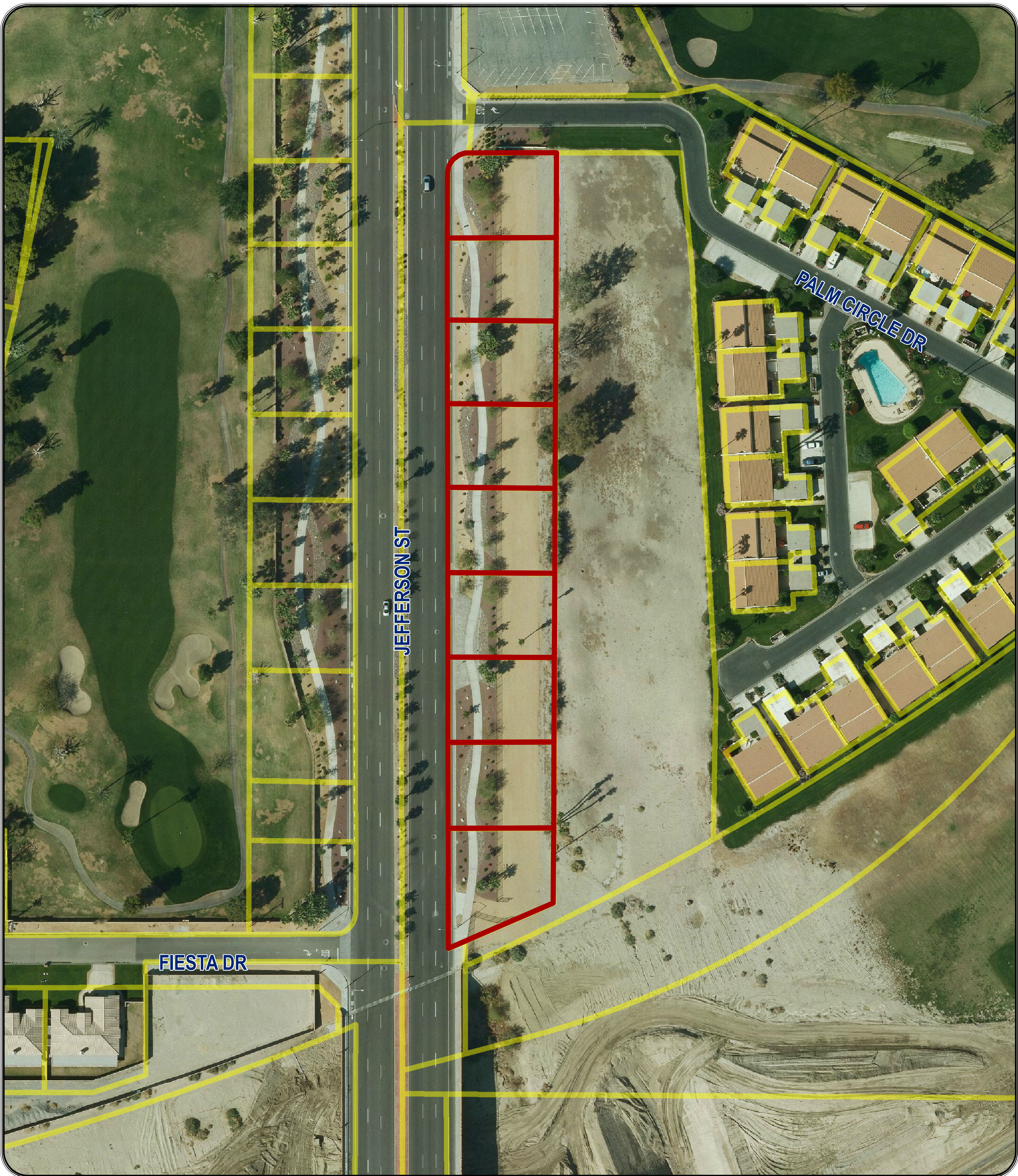
Name: _____

Its: _____

EXHIBIT "A"

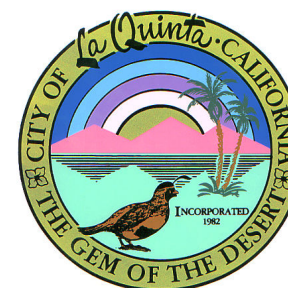
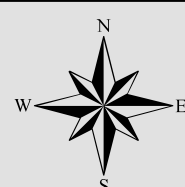
LOCATION AND AERIAL DEPICTION OF PROPERTY

[Attached]



Desert Land Holdings, LLC Acquisition

October 28, 2014



City of La Quinta
Planning Division
Community Development Department

EXHIBIT "B"

FORM OF GRANT DEED

[SEE FOLLOWING PAGES]

Recording Requested By and
When Recorded Return to:

Desert Land Holdings L.L.C.
42-335 Washington Street, Suite F # 340
La Quinta, CA 92211
Attn: Jim Snellenberger, C.E.O. & President

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CITY OF LA QUINTA, a Municipal Corporation (the "**Grantor**"), hereby grants to DESERT LAND HOLDINGS L.L.C., an California limited liability company ("**Grantee**"), that certain real property ("**Property**") located in the City of La Quinta, County of Riverside, State of California, described in the legal description attached hereto as Attachment No. 1 and incorporated herein by this reference, subject to all matters of record.

"Grantor"

CITY OF LA QUINTA,
a California municipal corporation

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

City Attorney

State of California)
County of Riverside)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____
State of California)
County of Riverside)

(Seal)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF PROPERTY

The following described real property in the City of La Quinta, County of Riverside, State of California:

[INSERT LEGAL DESCRIPTION BASED ON FINAL SUBDIVISION MAP OR SIMILAR INSTRUMENT CREATING A SEPARATE LEGAL PARCEL FOR THE PROPERTY FROM THE PRE-SUBDIVIDED CITY-OWNED PARCEL, PER SECTION 3 OF THE AGREEMENT]

EXHIBIT "C"

AFFIDAVIT OF NON-FOREIGN ENTITY

TO: DESERT LAND HOLDINGS L.L.C. ("**Buyer**")

The Internal Revenue Code of 1954 ("**Code**") (26 U.S.C. Sections 1445, 7701) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon transfer of that certain U.S. real property interest described in Exhibit "A" to the Agreement for Purchase and Sale and Escrow Instructions dated _____, 2014, and incorporated herein by reference ("**Property**"), that the undersigned ("**Seller**") hereby certifies the following:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); and
2. The U.S. taxpayer identification number for Seller is 95-3740431; and
3. The address for mailing purposes of Seller is: 78-495 Calle Tampico, La Quinta, California 92253; and
4. Seller understands that this certification may be disclosed to the Internal Revenue Service by Buyer and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Dated: _____, 2014

CITY OF LA QUINTA, a Municipal Corporation

By: _____
Frank J. Spevacek, City Manager

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EXHIBITS

- Exhibit A Legal Description of the Property
- Exhibit B Form of Grant Deed
- Exhibit C Form of Affidavit of Non-Foreign Entity

