



City of La Quinta

CITY / SA / HA / FA MEETING DATE: February 17, 2015

AGENDA CATEGORY:

ITEM TITLE: APPROVE MEMORANDUM OF UNDERSTANDING AMONG KOHL'S DEPARTMENT STORE, INC., ONE ELEVEN LA QUINTA, LLC, AND THE CITY OF LA QUINTA FOR ADAMS STREET SIGNAL AND STREET IMPROVEMENT PROJECT

BUSINESS SESSION: 1

CONSENT CALENDAR:

STUDY SESSION:

PUBLIC HEARING:

RECOMMENDED ACTION:

Approve a Memorandum of Understanding among Kohl's Department Stores, Inc., One Eleven La Quinta, LLC, and the City of La Quinta for the developers' participation in the Adams Street Signal and Street Improvement project, subject to minor modifications by the City Attorney.

EXECUTIVE SUMMARY:

- The City and property owners within the One-Eleven Shopping Center desire to construct a new traffic signal and intersection improvements at Adams Street and Corporate Center Drive in order to facilitate access into the commercial center and improve traffic safety on Adams Street.
- The improvements include installing a new west leg to the intersection, signaling the intersection, and installing a hardscape median from Highway 111 to the Adams Street Bridge.
- The Memorandum of Understanding (MOU) requires the private property owners (Kohl's Department Stores, Inc. ("Kohl's") and One Eleven La Quinta, LLC) to each contribute \$50,000 as well as dedicate the right-of-way necessary for these improvements.

FISCAL IMPACT:

The total project cost is estimated to be \$820,550. Per the MOU, the property owners will fund \$100,000 of this cost. The following is the proposed project funding:

| | |
|-----------------------------------|------------------|
| Measure A Funds: | \$261,000 |
| Transportation DIF Funds: | \$459,500 |
| Developer Contributions: | \$100,000 |
| Total Anticipated Funding: | \$820,500 |

The following represents the anticipated project budget:

| | Original Budget | Anticipated Budget |
|--|------------------|--------------------|
| Professional: | \$0 | \$46,695 |
| Design: | \$50,220 | \$95,500 |
| Inspection/Testing/Survey: | \$48,965 | \$55,620 |
| Construction: | \$502,200 | \$570,460 |
| City Administration: | \$25,110 | \$28,522 |
| Contingency: | \$94,005 | \$23,703 |
| Total Anticipated Project Budget: | \$720,500 | \$820,500 |

BACKGROUND/ANALYSIS:

The Adams Street Signal and Street Improvement project will relieve congestion and improve north/south passage on Adams Street between Highway 111 and the Adams Street Bridge (Attachment 1). It will also improve crossing Adams Street between the Kohl’s parking lot and The Pavilion at La Quinta shopping center, and other commercial developments along Corporate Center Drive, east of Adams Street.

This project initially was conceived to entail a three-legged intersection. However, during the design phase, it was determined that a four-legged signalized intersection would better facilitate traffic flows. In order to accommodate a four-legged intersection, staff began negotiations with Kohl’s and One Eleven La Quinta, LLC, to determine their level of participation in both the signal and on-site parking lot improvements. These negotiations generated the recommended MOU (Attachment 2).

The MOU has been executed by both Kohl’s and One Eleven La Quinta, LLC and contains the agreed upon terms. In addition to the funding contributions, the developers are dedicating permanent right-of-way for the street and signal improvements as well as providing temporary right-of-way for construction. Additionally, the MOU calls for the City to assist Kohl’s and One Eleven La Quinta, LLC in the preparation of a parcel map to dedicate half of the new entrance to Kohl’s as well as to create a second commercial pad for One Eleven La Quinta, LLC to the north of the intersection sometime in the future. The MOU also provides

that if the improvements are not constructed, Kohl's and One Eleven La Quinta, LLC will be entitled to a full refund and the City will be obligated to reestablish existing access.

Contingent upon City Council's approval, the following is the anticipated project schedule:

| | |
|--|-------------------------------|
| Design Phase | Through March 2, 2015 |
| Plans Specifications & Estimate Approval | March 3, 2015 |
| Advertisement for Bids | March 9 through April 9, 2015 |
| Award of Contract | April 21, 2015 |
| Sign Contracts and Mobilize | April 22 through May 18, 2015 |
| Construction (45 Working Days) | May 19 through July 31, 2015 |
| Project Substantially Complete* | August 1, 2015 |

*The MOU requires completion of the street improvements no later than November 1, 2015.

ALTERNATIVES:

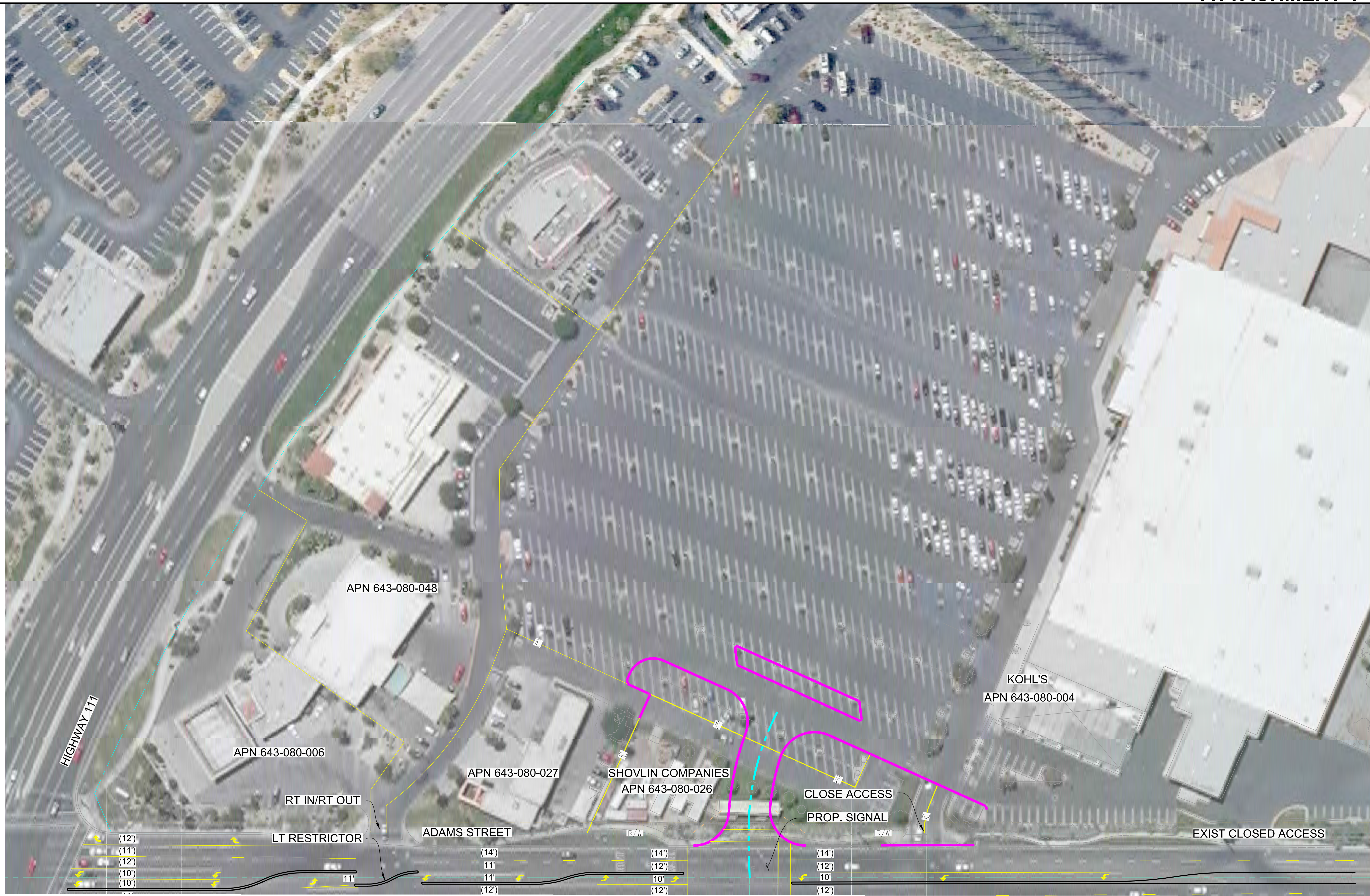
An alternative to the recommended action is to not construct a four-legged intersection. Staff does not recommend this alternative because it would impact traffic circulation and would reduce access to the One Eleven Center.

Report prepared by: Edward J. Wimmer, P.E., Principal Engineer

Report approved for submission by: Timothy R. Jonasson, P.E.

Public Works Director/City Engineer

Attachments: 1. Site Plan
 2. Memorandum of Understanding



ADAMS STREET SIGNAL AND STREET IMPROVEMENTS
CITY PROJECT #2012-01

**MEMORANDUM OF UNDERSTANDING
BY AND AMONG
KOHL'S DEPARTMENT STORE, INC.,
AND
ONE ELEVEN LA QUINTA, LLC,
AND
THE CITY OF LA QUINTA**

This Memorandum of Understanding ("MOU"), dated this ___ day of _____, 2015, is made by and among the CITY OF LA QUINTA, a municipal corporation and charter city ("City"), KOHL'S DEPARTMENT STORES, INC., a Delaware corporation licensed to do business in California ("Kohl's"), and ONE ELEVEN LA QUINTA, LLC, a California limited liability company ("One Eleven"). City, Kohl's and One Eleven hereinafter may be referred to individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, the City is the lead agency with regard to the Adams Street Signal and Street Improvements Project known as City Project #2012-01 (the "Project"). As part of the Project, the City is the lead agency for infrastructure construction associated with a street signal and related traffic circulation improvements at the intersection of Adams Street and Corporate Center Drive (the "Intersection"), which improvements are the installation of a new four-legged traffic signal, median improvements on Adams Street, and entry improvements onto One Eleven LLC Tract (defined below), as more particularly set forth in Exhibit A and Exhibit B attached hereto and incorporated herein by this reference (the "Traffic Circulation Improvements") and described in the scope of work set forth in Exhibit C attached hereto and incorporated herein by this reference (the "Scope of Work").

WHEREAS, Kohl's is the owner of certain real property in the City of La Quinta, County of Riverside, State of California with Assessor's Parcel Number 643-080-004 ("Kohl's Tract").

WHEREAS, One Eleven is the owner of certain real property in the City of La Quinta, County of Riverside, State of California with Assessor's Parcel Number 643-080-026 ("One Eleven LLC Tract").

WHEREAS, the Parties have negotiated and agree that the Traffic Circulation Improvements at the Intersection, with appurtenant real property dedication, easements, and other improvements, is the preferred alternative for the safety and convenience of the traveling public, as more particularly set forth in this MOU.

COVENANTS

NOW, THEREFORE, based upon the foregoing Recitals, which are incorporated herein by this reference and a substantive part of this MOU, and for other good and valuable consideration, the Parties agree as follows:

1. Construction of Improvements. Subject to the terms and conditions set forth in this MOU, City shall construct and complete the Traffic Circulation Improvements no later than November 1, 2015, in accordance with the Traffic Circulation Improvements and Scope of Work, and the timing of the Traffic Circulation Improvements shall not exceed 180 days from the date of commencement of the Traffic Circulation Improvements under the Scope of Work.
2. Kohl's Payment Obligation. Kohl's shall contribute \$50,000 to the Traffic Circulation Improvements. Kohl's shall pay to City four (4) equal installment payments of \$12,500 each. Kohl's shall make each installment payment annually, commencing with the first installment payment due to City no later than April 1, 2015, and the final installment payment due to City no later than April 1, 2018.
3. One Eleven Payment Obligation. One Eleven shall contribute \$50,000 to the Traffic Circulation Improvements. One Eleven shall pay to City four (4) equal installment payments of \$12,500 each. One Eleven shall make each installment payment annually, commencing with the first installment payment due to City no later than April 1, 2015, and the final installment payment due to City no later than April 1, 2018.
4. Dedication. In order to facilitate City's completion of the Traffic Circulation Improvements, One Eleven shall dedicate to the City that portion of the One Eleven LLC Tract from beginning of curve on One Eleven LLC Tract to the existing right-of-way for the full width of the new north-westerly leg of the Intersection as depicted on the Traffic Circulation Improvements and containing approximately 1,827 square feet.
5. Transfer of Portion of One Eleven LLC Tract to Kohl's. In order to facilitate the City's completion of the Traffic Circulation Improvements, a portion of the One Eleven LLC Tract shall be deeded to Kohl's, as depicted on the Traffic Circulation Improvements (noted as "Shovlin Property Deeded to Kohl's"). One Eleven shall apply for and process, and City shall assist with, a new parcel map or lot-line adjustment pursuant to the California Subdivision Map Act to cause one half of the relocated driveway into the shopping center off of Adams Street to be included in the Kohl's Tract as more particularly depicted on the Traffic Circulation Improvements.
6. Transfer of Portion of Kohl's Tract to One Eleven. In order to facilitate the City's completion of the Traffic Circulation Improvements, a portion of Kohl's Tract shall be deeded to One Eleven, as depicted on the Traffic Circulation Improvements (noted as "Kohl's Property Deeded to Shovlin"). One Eleven, with the consent of Kohl's, shall apply for and process, and City shall assist with, a new parcel map or lot-line adjustment pursuant to the California Subdivision Map Act to cause the transfer of property identified as "Kohl's Property Deeded to Shovlin" as depicted on the Traffic Circulation Improvements.
7. Reservation of Discretion. Nothing in this MOU shall obligate the Planning Commission, City Council, or any other body in the City with discretionary review or legislative authority over a parcel map or lot-line adjustment. Kohl's and One Eleven

expressly acknowledge and agree that the Planning Commission, City Council, and any other body with discretionary review or legislative authority over the Kohl's Tract and One Eleven LLC Tract 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 MOU removes or limits that discretionary power. In the event the Planning Commission, City Council, or any other body in the City with discretionary review or legislative authority should deny a parcel map or lot-line adjustment submitted pursuant to paragraphs 5 or 6 of this MOU, Kohl's and One Eleven shall be fully reimbursed for any payments it made pursuant to paragraphs 2 and 3 of this MOU, and the City shall restore an access driveway from Adams Street onto the Kohl's Tract.

8. Closure of Access Driveways. Upon completion of the Traffic Circulation Improvements, Kohl's agrees to the permanent closure of two (2) access driveways from Adams Street onto the Kohl's Tract identified on Exhibit A as "close access" and "exist closed access" along Adams Street (the "Kohl's Access Driveways"). Kohl's acknowledges and agrees to the temporary closure of the access driveway identified on Exhibit A as "close access" at intermittent periods during construction of the Project.
9. Temporary Construction Easement. In order to facilitate the City's completion of the Traffic Circulation Improvements, Kohl's and One Eleven, respectively, shall provide the City with their respective temporary construction easements in the areas shown in Traffic Circulation Improvements as being required for the proper construction of curbing, landscaping, cut and/or fill slopes, and other construction activities associated with the Traffic Circulation Improvements. Said temporary construction easement shall be in the forms attached hereto as Exhibit D and Exhibit D-1, and shall be at no cost to City. Said temporary construction easement shall terminate on the date that is the earlier of one (1) year from the date of this MOU or at such time as the Traffic Circulation Improvements are completed.
10. Development of One Eleven LLC Tract. Except for the Traffic Circulation Improvements as set forth in this MOU, One Eleven shall construct, or cause the construction of, and shall pay for any and all other improvements to the One Eleven LLC Tract in accordance with all applicable laws, entitlements, and approvals.
11. Compliance with Laws and Standards. The Traffic Circulation Improvements shall be constructed to meet or exceed the standards applied to the balance of the Project and shall be harmonious with the shopping center.
12. Maintenance of Improvements. Upon completion of the Traffic Circulation Improvements, City shall be responsible for the operation and maintenance of the Adams Street signal at the Intersection, the maintenance of the curb and gutter along Adams Street, and the medians on Adams Street. City shall not be responsible for the operation and maintenance of the other Traffic Circulation Improvements, on either the Kohl's Tract or the One Eleven LLC Tract, or of any other improvements on, over, under, or about either the Kohl's Tract or the One Eleven LLC Tract.

13. Full Satisfaction of City Obligations; Waiver and Release of Claims. Kohl's and One Eleven, respectively, agree that the terms and conditions set forth in this MOU constitute full satisfaction of any and all obligations from the City to both Kohl's and One Eleven for the Traffic Circulation Improvements. Neither Kohl's nor One Eleven, jointly or separately, shall seek any claims relating to the effect or impact the Traffic Circulation Improvements have on the Kohl's Tract and One Eleven LLC Tract, including without limitation any claims for relocation assistance, relocation benefits, interruption of the use and enjoyment of real property, any business interruption or loss of business goodwill, compensation for real or personal property, improvements pertaining to the realty, inverse condemnation or taking of property, inverse condemnation damages, pre-condemnation damages, or damages of any nature whatsoever, except as expressly provided in this MOU or the temporary construction easement. Except for reimbursement and restoration of a driveway authorized pursuant to paragraph 7 of this MOU and Kohl's ability to exercise self-help (and be reimbursed) to both restore an access driveway and complete any work on the Kohl's Tract, the sole and exclusive remedy against City by either Kohl's or One Eleven, or both, for breach of this MOU by the City, shall be to seek declaratory and injunctive relief to compel City to complete the Traffic Circulation Improvements pursuant to this MOU.
14. Indemnification. City shall indemnify, defend, protect and hold Kohl's harmless from and against any and all claims, demands, causes of action, damages, losses, or liabilities incurred in connection with or arising out of the construction of the Project by the City or invitees, contractors, or agents of the City performing work on behalf of the City, except those claims, demands, causes of action, damages, losses, or liabilities attributed to or caused by the negligence or willful misconduct of Kohl's. City shall indemnify, defend, protect and hold One Eleven harmless from and against any and all claims, obligation, demands, causes of action, damages, losses, injuries or liabilities incurred in connection with or arising out of the construction of the Project by the City or invitees, contractors, or agents of the City performing work on behalf of the City, except those claims, demands, causes of action, damages, losses, or liabilities attributed to or caused by the negligence or willful misconduct of One Eleven.
15. Additional Waiver/Release; Reservation of Rights. In addition to the release/waiver of claims in the preceding paragraph, Kohl's shall seek neither a takings claim nor pursue an inverse condemnation claim against City for the permanent closure of the Kohl's Access Driveways. Kohl's shall provide City with conveyance documents, mutually acceptable to the Parties, necessary to effectuate such permanent closures of the Kohl's Access Driveways.
16. Notice of Work to Kohl's. Prior to any construction activities on Kohl's Tract or One Eleven LLC Tract, City shall provide thirty (30) days advance written notice to Kohl's unless an emergency requires immediate access onto Kohl's Tract or One Eleven LLC Tract, in which case City shall provide written notice to Kohl's of the emergency and the City's entry onto the Kohl's Tract or One Eleven LLC Tract within the next business day. No construction activities performed by City shall occur on the Kohl's Tract or One Eleven LLC Tract from November 1 through January 15 without the prior written

consent of Kohl's, which may be granted or denied in its sole and absolute discretion unless an emergency requires the City to have immediate access onto Kohl's Tract or One Eleven LLC Tract, in which case notice of said emergency shall comply with the provisions of this paragraph.

17. Notice of Work to One Eleven. Prior to any construction activities on the One Eleven LLC Tract, City shall provide thirty (30) days advance written notice to One Eleven unless an emergency requires immediate access onto the One Eleven LLC Tract, in which case City shall provide written notice to One Eleven of the emergency and the City's entry onto the One Eleven LLC Tract within the next business day. No construction activities performed by City shall occur on the One Eleven LLC Tract from November 1 through January 15 without the prior written consent of One Eleven, which may be granted or denied in its sole and absolute discretion unless an emergency requires the City to have immediate access onto the One Eleven LLC Tract, in which case notice of said emergency shall comply with the provisions of this paragraph.
18. Restore/Repair Kohl's Tract. City shall restore, as close as is reasonably possible, any portion of the Kohl's Tract on which the City entered and used pursuant to the temporary access rights and use easement set forth in this MOU to the condition in which that portion of the Kohl's Tract existed on the date on which City commences the construction for the Traffic Circulation Improvements. City shall apply reasonable efforts to instruct any contractor selected for the construction of the Traffic Circulation Improvements not to perform any activities that would materially impact the operations of the landowner, particularly during the months of November and December, and to provide a constant free flow of traffic and directional signage, if requested and as needed, to Kohl's business.
19. Restore/Repair One Eleven LLC Tract. City shall restore, as close as is reasonably possible, any portion of the One Eleven LLC Tract on which the City entered and used pursuant to the temporary access rights and use easement set forth in this MOU to the condition in which that portion of the One Eleven LLC Tract existed on the date on which City commences the construction for the Traffic Circulation Improvements. City shall apply reasonable efforts to instruct any contractor selected for the construction of the Traffic Circulation Improvements not to perform any activities that would materially impact the operations of the landowner, particularly during the months of November and December, and to provide a constant free flow of traffic and directional signage, if requested and as needed, to the businesses on the One Eleven LLC Tract
20. Entire Agreement; Amendments. This MOU (which includes attachments and exhibits) contains the entire agreement of the Parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. This MOU cannot be changed or terminated orally or electronically but only by an amendment in writing signed by the Parties.
21. Notices. All notices under this MOU shall be effective (i) upon personal delivery, (ii) upon delivery by reputable express courier that provides a receipt with the date and time

of delivery, or (iii) three (3) business days after deposit in the United States mail, registered or certified, postage fully prepaid and addressed to the respective parties as set forth below, or by method of delivery (such as e-mail) as may be acceptable to that Party (memorialized in writing) or to such other address as the Parties may from time to time designate in writing:

To Kohl's: Kohl's Department Stores, Inc.
N56 W17000 Ridgewood Drive
Menomonee Falls, WI 53051
Attn: Law Department

To One Eleven: One Eleven La Quinta, LLC
71084 Tamarisk Lane
Rancho Mirage, CA 92270
Attention: Mr. Michael Shovlin

To City: City of La Quinta
78-495 Calle Tampico
La Quinta, California 92253
Phone No.: 760-777-7031
Attention: City Manager

with City Copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92628-1950
Phone No.: (714) 641-5100
Attention: William H. Ihrke, Esq.

22. Liability for Breach. No termination of this MOU shall release any Party from any liability or obligation under this MOU resulting from any acts, material omissions, or events happening prior to the termination of this MOU; provided, however, that the remedies available for any liability shall be limited to those expressly provided in this MOU.
23. No Cross-Default. There shall be no cross-defaults between Kohl's and One Eleven. A default under this MOU by Kohl's shall not be deemed a default against One Eleven, and a default under this MOU by One Eleven shall not be deemed a default against Kohl's.
24. No Joint Venture. Nothing in this MOU is intended to or shall be deemed to create any joint venture or partnership among the Parties, and each of the Parties shall remain an independent entity and contracting party as related to the other Parties.
25. Assignments. This MOU shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, personal representatives, successors and assigns. Except for transfers and assignments of real property interests as set forth in this MOU, no Party may assign this MOU or any interest or right hereunder without the prior written

consent and approval of the other Parties, which consent and approval may be withheld in the sole and absolute discretion of either Party. No provision of this MOU is intended nor shall in any way be construed to benefit any person or entity not a signatory hereto or to create a third party beneficiary relationship.

26. Interpretation. This MOU is deemed to have been prepared by all of the Parties hereto, after consulting with legal counsel, and any uncertainty or ambiguity herein shall not be interpreted against the drafter, but rather, if such ambiguity or uncertainty exists, shall be interpreted according to the applicable rules of interpretation of contracts under the law of the State of California.
27. Authority to Bind Parties. The persons signing this MOU warrant that each of them has the authority to execute this MOU on behalf of the Party on whose behalf said person is purporting to execute this MOU, and that this MOU is a binding obligation of said Parties.
28. Governing Law. This MOU shall be construed and enforced in accordance with the laws of the State of California without regard to conflict of law principles.
29. Attorney's Fees. In the event of litigation relating to this MOU, the prevailing Party shall be entitled to reasonable attorney's fees and costs, including any fees and costs on appeal.
30. Severability. In the event that any provisions of this MOU are held by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect, in any respect whatsoever, the validity of the remainder of this MOU.
31. Waiver. No waiver or consent shall be implied from silence or any failure of a Party to act, except as otherwise specified by this MOU. Any Party may specifically and expressly waive, in writing, any portion of this MOU or any breach hereof, but no such waiver shall constitute a further or continuing waiver of any proceeding or succeeding breach of the same or any other provision.
32. Counterparts. This MOU may be executed in two or more counterparts, each of which when so executed and delivered shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be signed as of the day and year first above written.

“CITY”

CITY OF LA QUINTA,
a California municipal corporation and charter city

Date: _____, 2014

By: _____
Name: Frank J. Spevacek
Its: City Manager

ATTEST:

Susan Maysels, City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By: _____
William H. Ihrke, City Attorney

“KOHL’S”

KOHL’S DEPARTMENT STORES, INC.,
a Delaware corporation

Date: January 30, 2015

By: _____
Name: Richard D. Schepp
Its: Secretary



“ONE ELEVEN”

ONE ELEVEN LA QUINTA, LLC,
a California limited liability company

Date: _____, 2014

By: _____
Name: Michael Shovlin
Its: Manager

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be signed as of the day and year first above written.

“CITY”

CITY OF LA QUINTA,
a California municipal corporation and charter city

Date: _____, 2014

By: _____

Name: Frank J. Spevacek

Its: City Manager

ATTEST:

Susan Maysels, City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By: _____

William H. Ihrke, City Attorney

“KOHL’S”

KOHL’S DEPARTMENT STORES, INC.,
a Delaware corporation

Date: _____, 2014

By: _____

Name: _____

Its: _____

“ONE ELEVEN”

ONE ELEVEN LA QUINTA, LLC,
a California limited liability company

Date: _____, 2014

By: 

Name: Michael Shovlin

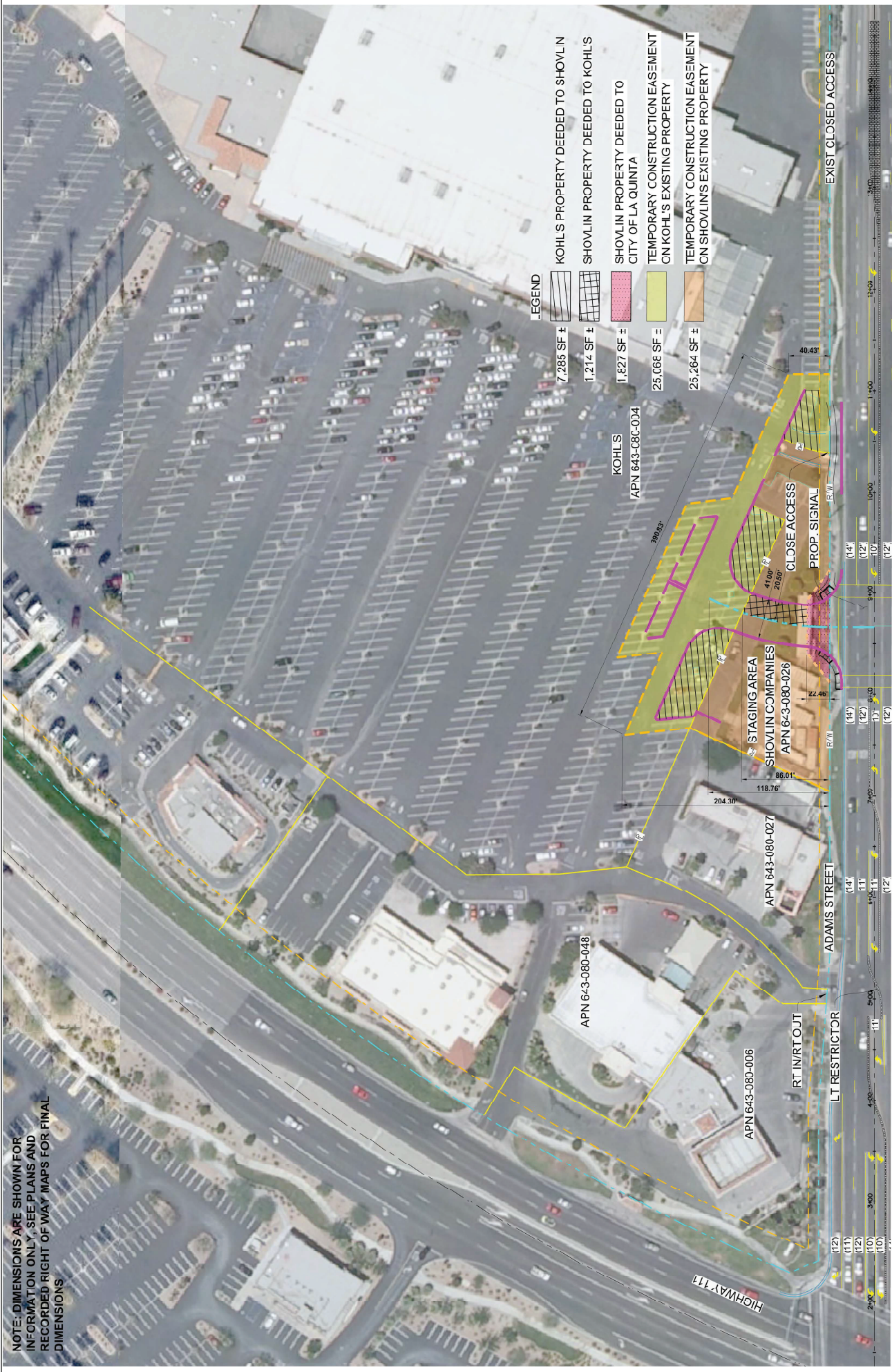
Its: Manager

EXHIBIT “A” and EXHIBIT “B”

Traffic Circulation Improvements

[attached]

NOTE: DIMENSIONS ARE SHOWN FOR INFORMATION ONLY. SEE PLANS AND RECORDED RIGHT OF WAY MAPS FOR FINAL DIMENSIONS

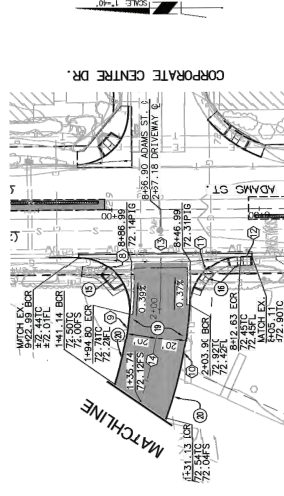
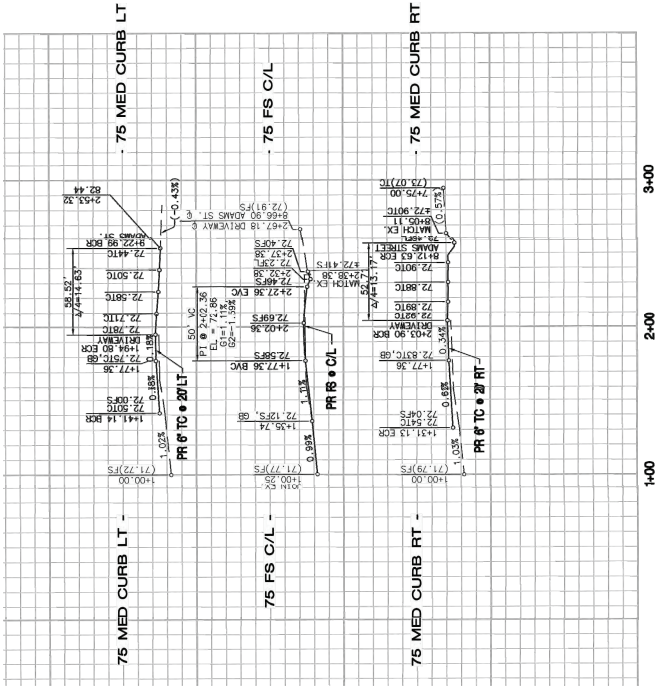
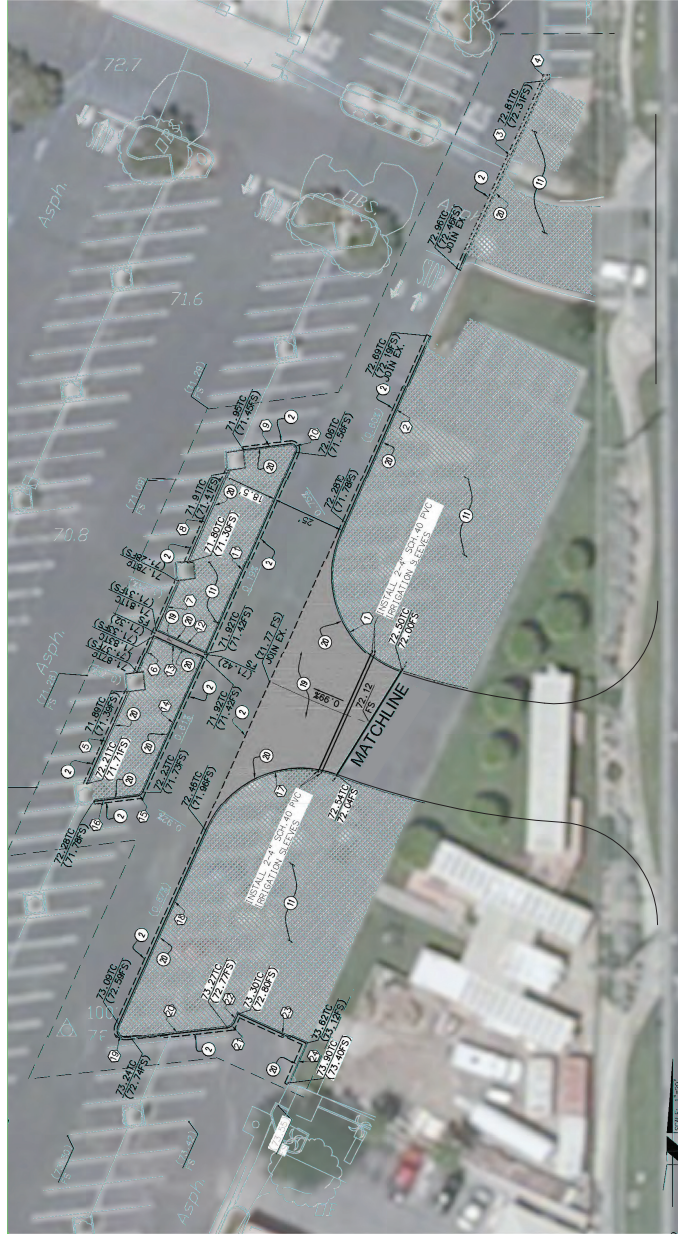


NOTE: DIMENSIONS ARE SHOWN FOR INFORMATION ONLY. SEE PLANS AND RECORDED RIGHT OF WAY MAPS FOR FINAL DIMENSIONS

- LEGEND**
- SWMUT AC OR CONCRETE SURFACE (1)
 - CONSTRUCT 4" AC OVER 8" CLASS II AB (10)
 - INSTALL SUITABLE BAGGILL MATERIAL 4" BELOW TOP OF CURB AND (11)

CONSTRUCTION NOTES

- (1) PROTECT IN PLACE
- (2) SWMUT AC OR CONCRETE SURFACE
- (3) INSTALL SUITABLE BAGGILL MATERIAL 4" BELOW TOP OF CURB AND AS DIRECTED BY THE CITY REPRESENTATIVE
- (4) RESTORE PARKING SURFACE IN 14' PER CITY OF LA QUINTA STD. 250
- (5) RESTORE PARKING SURFACE IN 14' PER CITY OF LA QUINTA STD. 250
- (6) CONSTRUCT 4" CURE RAMP CASE "6" PER CITY OF LA QUINTA STD. 250
- (7) CONSTRUCT 8" CURB & GUTTER PER CITY OF LA QUINTA STD. 201
- (8) CONSTRUCT 4" AC OVER 8" CLASS II AB
- (9) CONSTRUCT 4" AC OVER 8" CLASS II AB
- (10) CONSTRUCT 8" MEDIAN CURB PER CITY OF LA QUINTA STD. 210
- (11) CONSTRUCT SIDEWALK PER CITY OF LA QUINTA STD. 240 & 241
- (12) CONSTRUCT STAMPED CONCRETE PER CITY OF LA QUINTA STD. 720



PARKING LOT AND DRIVEWAY EXHIBIT

CITY PROJECT #2012-01

EXHIBIT B

EXHIBIT “C”

Scope of Work

[attached]

EXHIBIT C: PROJECT DESCRIPTION AND SCOPE OF IMPROVEMENTS

Project Type: Secondary Arterial

Project: Adams Street Traffic Signal and Street Improvements (Highway 111 to Adams St. Bridge)

Description
 The proposed project scope is for the construction of a four legged signalized intersection at Corporate Center Drive and Adams Street. The fourth leg is proposed to enter into the existing shopping center through two private properties. The new signal will be placed at the intersection and include new ADA compliant curb ramps. The project includes the installation of new median curbs from Highway 111 to the Adams Street Bridge. This project does not include landscape and irrigation on private property, which will be the future responsibility of the respective private property owners.

| ITEM | DESCRIPTION | UNITS | QUANTITY | UNIT COST | TOTAL COST |
|------|--|-------|----------|--------------|----------------------|
| A | MOBILIZATION | LS | 1 | \$28,000.00 | \$ 28,000.00 |
| B | TRAFFIC CONTROL | LS | 1 | \$60,000.00 | \$ 60,000.00 |
| C | DUST CONTROL | LS | 1 | \$10,000.00 | \$ 10,000.00 |
| D | CLEARING AND GRUBBING | LS | 1 | \$35,000.00 | \$ 35,000.00 |
| E | UNCLASSIFIED EXCAVATION (INCLUDES, PAVEMENT REMOVAL, CURB AND GUTTER REMOVAL, AND OTHER MISC REMOVAL) | LS | 1 | \$28,740.00 | \$ 28,740.00 |
| F | OUTSIDE CITY R/W - INSTALL SUITABLE BACKFILL MATERIAL 4" BELOW TOP OF CURB AND AS DIRECTED BY THE CITY | CY | 193 | \$13.00 | \$ 2,509.00 |
| G | CONSTRUCT ADA CURB RAMP CASE "A" PER CITY OF LA QUINTA STD. 250 | EA | 2 | \$2,000.00 | \$ 4,000.00 |
| H | CONSTRUCT ADA CURB RAMP CASE "B" PER CITY OF LA QUINTA STD. 250 | EA | 1 | \$2,000.00 | \$ 2,000.00 |
| I | CONSTRUCT ADA CURB RAMP CASE "D" PER CITY OF LA QUINTA STD. 250 | EA | 1 | \$2,000.00 | \$ 2,000.00 |
| J-1 | INSIDE CITY R/W - CONSTRUCT 6" CURB & GUTTER PER CITY OF LA QUINTA STD. 201 | LF | 221 | \$16.00 | \$ 3,536.00 |
| J-2 | OUTSIDE CITY R/W - CONSTRUCT 6" CURB & GUTTER PER CITY OF LA QUINTA STD. 201 | LF | 129 | \$16.00 | \$ 2,064.00 |
| K-1 | INSIDE CITY R/W -CONSTRUCT 4" ASPHALT CONCRETE OVER 8" CLASS II AGGREGATE BASE | SF | 14177 | \$6.00 | \$ 85,062.00 |
| K-2 | OUTSIDE CITY R/W - CONSTRUCT 4" ASPHALT CONCRETE OVER 8" CLASS II AGGREGATE BASE | SF | 4664 | \$6.00 | \$ 27,984.00 |
| L-1 | INSIDE CITY R/W -CONSTRUCT 6" MEDIAN CURB PER CITY OF LA QUINTA STD. 210 | LF | 2339 | \$12.00 | \$ 28,068.00 |
| L-2 | OUTSIDE CITY R/W - CONSTRUCT 6" MEDIAN CURB PER CITY OF LA QUINTA STD. 211 | LF | 845 | \$12.00 | \$ 10,140.00 |
| M | CONSTRUCT SIDEWALK PER CITY OF LA QUINTA STD. 240 & 241 | SF | 788 | \$4.00 | \$ 3,152.00 |
| N | CONSTRUCT CROSS GUTTER PER CITY OF LA QUINTA STD. 230 & 231 | SF | 1,706 | \$12.00 | \$ 20,472.00 |
| O | CONSTRUCT STAMPED CONCRETE PER CITY OF LA QUINTA STD. 720 | SF | 2,813 | \$6.50 | \$ 18,284.50 |
| P | TRAFFIC SIGNAL CONTROLLER CONCRETE PAD | SF | 165 | \$4.00 | \$ 660.00 |
| Q | SIGNING AND STRIPING | LS | 1 | \$20,000.00 | \$ 20,000.00 |
| R | INSTALL TRAFFIC SIGNAL | EA | 1 | \$149,850.00 | \$ 149,850.00 |
| S-1 | INSIDE CITY R/W - RESTORE PARKWAY LANDSCAPE IN KIND | SF | 611 | \$2.00 | \$ 1,222.00 |
| S-2 | OUTSIDE CITY R/W - RESTORE PARKWAY LANDSCAPE IN KIND | SF | 108 | \$2.00 | \$ 216.00 |
| T | ADJUST TO GRADE WATER VALVE AND FRAME PER CVWD STD. S-1B UNDER DIRECT CVWD INSPECTION | EA | 11 | \$2,500.00 | \$ 27,500.00 |
| | SUB TOTAL | | | | \$ 570,459.50 |

Estimated Soft Costs:

| | |
|------------------------|----------------------|
| Design (Actual): | \$ 72,900.00 |
| Professional (Actual): | \$ 33,962.70 |
| Technical (9.75%): | \$ 55,619.80 |
| City Admin (5%): | \$ 28,522.98 |
| Contingency (10%): | \$ 57,045.95 |
| Total Estimate: | \$ 818,510.93 |

EXHIBITS “D” AND “D-1”

Temporary Construction Easement Forms

[attached]

1 (City of La Quinta "City"), and

2 **KOHL'S DEPARTMENT STORES, INC., a Delaware Corporation**

(Herein referred to as "Grantor")

3 PROJECT: Adams Street Signal and Median Construction
4 PARCEL: Parcel 6 of PM 25865
5 APN: 643-080-004

6 **TEMPORARY CONSTRUCTION AGREEMENT**
7 **("Agreement")**

- 8 1. The right is hereby granted City to enter upon and use the land of Grantor in the City of La Quinta, County of Riverside, State of California, described as a portion of Assessor's Parcel Number 643-080-004, highlighted on the map attached hereto, and made a part hereof, for all purposes necessary to facilitate and accomplish the construction of the Adams Street Signal and Median Island improvements along with the necessary parking lot improvements on Grantor's property for proper circulation.
- 9 2. The temporary construction easement, used during construction of the project consists of approximately 0.58 acres as designated on the attached map, referenced as Exhibit "A" ("Temporary Easement Parcel"). This Agreement is entered into concurrently with and pursuant to that certain Memorandum of Understanding by and among the City, Grantor, and One Eleven La Quinta LLC, dated of or about even date ("MOU").
- 10 3. A thirty (30) day written notice shall be given to Grantor prior to using the rights herein granted. The rights herein granted may be exercised for four months (4) months (subject to month-to-month extensions if necessary for completion of commenced work that is within the scope of work for which this temporary construction easement is granted) from the thirty (30) day written notice, or until completion of said project, whichever occurs first; provided, however, the maximum duration of the temporary construction easement herein granted to the City is for a period ending one year from the date of this Agreement. Construction will be prosecuted with continued diligence.
- 11 4. It is understood that the City may enter upon Grantor's property where appropriate or designated for the purpose of getting equipment to and from the Temporary Easement Parcel as well as providing construction activities for matching the Grantor's property with the proposed street improvements. City agrees not to damage or leave debris on Grantor's property in the process of performing such activities, and if such damage occurs or debris is deposited, City shall repair the damage or remove the debris, as applicable, not later than the earlier of the completion of the work or the expiration of the easement granted herein.
- 12 5. The right to enter upon and use Grantor's land includes the right to remove and dispose of real and personal property located within the Temporary Easement Parcel; provided, however, that no utility lines, pipes or other facilities located within the Temporary Easement Parcel shall be removed, damaged or adversely affected by the City. If any interruption in utility services is unavoidable, the interruption shall be coordinated with the Grantor so as to cause the least inconvenience to occupants of the adjoining shopping center.
- 13 6. At the termination of the period of use of the Temporary Easement Parcel by City, but before its relinquishment to Grantor, debris generated by City's use will be removed and the surface will be graded and left in a neat workman-like condition.
- 14 7. Grantor shall be indemnified and held harmless from claims of third persons arising from the use by City of the Temporary Easement Parcel in accordance with Section 14 of the MOU.
- 15 8. Grantor hereby specially warrants that they are the owners of the Temporary Easement Parcel and that they have the right to grant City permission to enter upon and use the Temporary Easement Parcel.
- 16 9. This Agreement is the result of negotiations between the parties hereto. This Agreement and the MOU are intended by the parties as a final expression of their understanding with respect to the matters herein and is a complete and exclusive statement of the terms and conditions thereof.

- 1 10. This Agreement shall not be changed, modified, or amended except upon the written consent of the
parties hereto.
- 2 11. This Agreement and the MOU supersede any and all other prior agreements or understandings, oral or
3 written, in connection therewith.
- 4 12. Grantor, their assigns and successors in interest, shall be bound by all the terms and conditions
contained in this Agreement, and all the parties thereto shall be jointly and severally liable thereunder.

5 Dated: _____

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8 **APPROVED AS TO FORM:**

9 By: _____
10 City Attorney, City of La Quinta

_____ City Manager, City of La Quinta

11 **GRANTOR:**

12 **KOHL'S DEPARTMENT STORES, INC.,**
13 **a Delaware corporation**

14 
15 By: _____

16 Name: Richard D. Schepp

17 Title: Secretary



18 [acknowledgment on next page]

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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Wisconsin)
County Waukesha)

On January 30, 2015 before me, LuAnn M Lipke, Notary Public
(insert name and title of the officer)

personally appeared Richard D. Schepp, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature LuAnn M Lipke (Seal)

My Commission expires 7-29-17



1 (City of La Quinta "City"), and

2 **ONE ELEVEN LA QUINTA, LLC, a California limited liability company**

(Herein referred to as "Grantor")

3 PROJECT: Adams Street Signal and Median Construction
4 PARCEL: Parcel 1 of Certificate of Compliance and Waiver of Parcel
Map recorded April 29, 1994 as Instrument No. 178098 of
5 APN: 643-080-026
Official Records, County of Riverside, State of California

6 **TEMPORARY CONSTRUCTION AGREEMENT**
7 **("Agreement")**

- 8 1. The right is hereby granted City to enter upon and use the land of Grantor in the City of La Quinta,
County of Riverside, State of California, described as a portion of Assessor's Parcel Number 643-080-
9 026, highlighted on the map attached hereto, and made a part hereof, for all purposes necessary to
facilitate and accomplish the construction of the Adams Street Signal and Median Island improvements
along with the necessary parking lot improvements on Grantor's property for proper circulation.
- 10 2. The temporary construction easement, used during construction of the project consists of approximately
11 0.36 acres as designated on the attached map, referenced as Exhibit "A" ("Temporary Easement
Parcel"). This Agreement is entered into concurrently with and pursuant to that certain Memorandum of
Understanding by and among the City, Grantor, and Kohl's Department Store, dated of or about even
12 date ("MOU").
- 13 3. A thirty (30) day written notice shall be given to Grantor prior to using the rights herein granted. The
rights herein granted may be exercised for four months (4) months (subject to month-to-month
14 extensions if necessary for completion of commenced work that is within the scope of work for which this
temporary construction easement is granted) from the thirty (30) day written notice, or until completion of
15 said project, whichever occurs first; provided, however, the maximum duration of the temporary
construction easement herein granted to the City is for a period ending one year from the date of this
Agreement. Construction will be prosecuted with continued diligence.
- 16 4. It is understood that the City may enter upon Grantor's property where appropriate or designated for the
purpose of getting equipment to and from the Temporary Easement Parcel as well as providing
17 construction activities for matching the Grantor's property with the proposed street improvements. City
agrees not to damage or leave debris on Grantor's property in the process of performing such activities,
18 and if such damage occurs or debris is deposited, City shall repair the damage or remove the debris, as
applicable, not later than the earlier of the completion of the work or the expiration of the easement
granted herein.
- 19 5. The right to enter upon and use Grantor's land includes the right to remove and dispose of real and
personal property located within the Temporary Easement Parcel; provided, however, that no utility lines,
20 pipes or other facilities located within the Temporary Easement Parcel shall be removed, damaged or
adversely affected by the City. If any interruption in utility services is unavoidable, the interruption shall
21 be coordinated with the Grantor so as to cause the least inconvenience to occupants of the adjoining
shopping center.
- 22 6. At the termination of the period of use of the Temporary Easement Parcel by City, but before its
relinquishment to Grantor, debris generated by City's use will be removed and the surface will be graded
23 and left in a neat workman-like condition.
- 24 7. Grantor shall be indemnified and held harmless from claims of third persons arising from the use by City
of the Temporary Easement Parcel in accordance with Section 14 of the MOU.
- 25 8. Grantor hereby specially warrants that they are the owners of the Temporary Easement Parcel and that
they have the right to grant City permission to enter upon and use the Temporary Easement Parcel.
9. This Agreement is the result of negotiations between the parties hereto. This Agreement and the MOU
are intended by the parties as a final expression of their understanding with respect to the matters herein
and is a complete and exclusive statement of the terms and conditions thereof.

1 10. This Agreement shall not be changed, modified, or amended except upon the written consent of the parties hereto.

2 11. This Agreement and the MOU supersede any and all other prior agreements or understandings, oral or written, in connection therewith.

3 12. Grantor, their assigns and successors in interest, shall be bound by all the terms and conditions contained in this Agreement, and all the parties thereto shall be jointly and severally liable thereunder.

4 Dated: 2-9-15

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8 **APPROVED AS TO FORM:**

9 By: _____
10 City Attorney, City of La Quinta

_____ City Manager, City of La Quinta

11 **GRANTOR:**

12 **ONE ELEVEN LA QUINTA, LLC**
13 **a California limited liability company**

14 By: Michael J Shoulin

By: _____

15 Name: Michael J Shoulin

Name: _____

16 Title: Manager

Title: _____

17 [acknowledgment on next page]
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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Riverside)

On February 9 2015 before me, L. Sorenson-Sims, Notary Public
(insert name and title of the officer)

personally appeared Michael J. Shoulin,
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 L. Sorenson-Sims (Seal)



