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CITY COUNCIL AGENDA

CITY HALL COUNCIL CHAMBER
78495 Calle Tampico, La Quinta

SPECIAL MEETING
TUESDAY, AUGUST 6, 2024, AT 4:00 P.M.

Members of the public may listen to this meeting by tuning-in live via <https://laquinta.cablecast.tv/watch-now?site=1>.

CALL TO ORDER

ROLL CALL: Councilmembers: Fitzpatrick, McGarrey, Peña, Sanchez, and Mayor Evans

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

At this time, members of the public may address the City Council on any matter not listed on the agenda pursuant to the "Public Comments – Instructions" listed at the end of the agenda. The City Council values your comments; however, in accordance with State law, no action shall be taken on any item not appearing on the agenda unless it is an emergency item authorized by the Brown Act [Government Code § 54954.2(b)].

CONFIRMATION OF AGENDA

PLEDGE OF ALLEGIANCE

BUSINESS SESSION

- | | | |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1. | REVIEW TERM SHEET RELATING TO PROPOSED INTERIM AGREEMENT FOR TRANSFER OF DEVELOPER RIGHTS AND OBLIGATIONS FOR THE TALUS PROJECT (FORMERLY SILVERROCK RESORT) | <u>PAGE</u>
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ADJOURNMENT

The next regular meeting of the City Council will be held on September 17, 2024, with open session starting at 4:00 p.m. at the City Hall Council Chamber, 78495 Calle Tampico, La Quinta, CA 92253.

DECLARATION OF POSTING

I, Monika Radeva, City Clerk of the City of La Quinta, do hereby declare that the foregoing Agenda for the La Quinta City Council Special meeting was posted on the City's website, near the entrance to the Council Chamber at 78495 Calle Tampico, and the bulletin board at the La Quinta Cove Post Office at 51321 Avenida Bermudas, on August 5, 2024.

DATED: August 5, 2024



MONIKA RADEVA, City Clerk
City of La Quinta, California

Public Notices

- Agenda packet materials are available for public inspection: 1) at the Clerk's Office at La Quinta City Hall, located at 78495 Calle Tampico, La Quinta, California 92253; and 2) on the City's website at www.laquintaca.gov/councilagendas, in accordance with the Brown Act [Government Code § 54957.5; AB 2647 (Stats. 2022, Ch. 971)].
- The La Quinta City Council Chamber is handicapped accessible. If special equipment is needed for the hearing impaired, please call the City Clerk's office at (760) 777-7123, 24-hours in advance of the meeting and accommodations will be made.
- If background material is to be presented to the City Council during a City Council meeting, please be advised that 15 copies of all documents, exhibits, etc., must be supplied to the City Clerk for distribution. It is requested that this takes place prior to the beginning of the meeting.

PUBLIC COMMENTS - INSTRUCTIONS

Members of the public may address the City Council on any matter listed or not listed on the agenda as follows:

WRITTEN PUBLIC COMMENTS can be provided either in-person during the meeting by submitting 15 copies to the City Clerk, it is requested that this takes place prior to the beginning of the meeting; or can be emailed in advance to CityClerkMail@LaQuintaCA.gov, no later than 9:00 a.m., on the day of the meeting. Written public comments will be distributed to Council, made public, and will be incorporated into the public record of the

meeting, but will not be read during the meeting unless, upon the request of the Mayor, a brief summary of public comments is asked to be reported.

If written public comments are emailed, the email subject line must clearly state **“Written Comments”** and should include: **1) full name, 2) city of residence, and 3) subject matter.**

VERBAL PUBLIC COMMENTS can be provided in-person during the meeting by completing a “Request to Speak” form and submitting it to the City Clerk; it is requested that this takes place prior to the beginning of the meeting. Please limit your comments to three (3) minutes (or approximately 350 words). Members of the public shall be called upon to speak by the Mayor.

In accordance with City Council Resolution No. 2022-027, a one-time additional speaker time donation of three (3) minutes per individual is permitted; please note that the member of the public donating time must: 1) submit this in writing to the City Clerk by completing a “Request to Speak” form noting the name of the person to whom time is being donated to, and 2) be present at the time the speaker provides verbal comments.

Verbal public comments are defined as comments provided in the speakers’ own voice and may not include video or sound recordings of the speaker or of other individuals or entities, unless permitted by the Mayor.

Public speakers may elect to use printed presentation materials to aid their comments; 15 copies of such printed materials shall be provided to the City Clerk to be disseminated to the City Council, made public, and incorporated into the public record of the meeting; it is requested that the printed materials are provided prior to the beginning of the meeting. There shall be no use of Chamber resources and technology to display visual or audible presentations during public comments, unless permitted by the Mayor.

All writings or documents, including but not limited to emails and attachments to emails, submitted to the City regarding any item(s) listed or not listed on this agenda are public records. All information in such writings and documents is subject to disclosure as being in the public domain and subject to search and review by electronic means, including but not limited to the City’s Internet Web site and any other Internet Web-based platform or other Web-based form of communication. All information in such writings and documents similarly is subject to disclosure pursuant to the California Public Records Act [Government Code § 7920.000 *et seq.*].

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City of La Quinta

CITY COUNCIL SPECIAL MEETING: August 6, 2024

STAFF REPORT

AGENDA TITLE: REVIEW TERM SHEET RELATING TO PROPOSED INTERIM AGREEMENT FOR TRANSFER OF DEVELOPER RIGHTS AND OBLIGATIONS FOR THE TALUS PROJECT (FORMERLY SILVERROCK RESORT)

RECOMMENDATION

- A. Review Term Sheet relating to proposed Interim Agreement for Transfer of Developer Rights and Obligations for the Talus project (formerly SilverRock Resort); and
- B. Authorize the City Manager to negotiate and enter into, on behalf of the City, an Interim Agreement based on the general terms and conditions of the Term Sheet.

EXECUTIVE SUMMARY

- The City and SilverRock Development Company, LLC (SDC) entered into a Purchase, Sale, and Development Agreement on November 19, 2014, which was subsequently amended via Amendments 1, 2, 3, 4, and 5, collectively referred to as the PSDA, for the Talus project (formerly SilverRock Resort).
- Pursuant to letters from the City and SDC, dated July 1 and August 1, 2024, included as Attachment 2, the City declared that SDC is in full breach of the PSDA and that SDC no longer has any rights as “Developer” under the PSDA for failure to timely cure, and inability to ever cure, the Defaults identified in those letters.
- The Term Sheet and Letter of Intent (Term Sheet), included as Attachment 1, set forth terms and conditions, with details and implementing provisions to be more fully developed and agreed upon in the Interim Agreement for Transfer of Developer Rights and Obligations (Interim Agreement) for the Talus project.

FISCAL IMPACT

None known or expected at this time, as the terms and conditions of the proposed Interim Agreement would not have the City pay for costs associated with SDC’s breach of the PSDA, and would provide for Christopher M. George (CMG) to pay off identified unpaid debts owed by SDC and acquisition costs for the properties currently held by SDC.

BACKGROUND/ANALYSIS

As public records reflect, the City and SDC entered into a PSDA on or about November 19, 2014 (“Original PSDA”), as amended by that certain Amendment No. 1 dated on or about October 29, 2015 (“Amendment No. 1”), that certain Amendment No. 2 dated on or about April 18, 2017 (“Amendment No. 2”), that certain Amendment No. 3 dated on or about November 28, 2018 (“Amendment No. 3”), that certain Amendment No. 4 dated on or about October 12, 2021 (“Amendment No. 4”), and that certain Amendment No. 5 dated on or about November 16, 2023 (“Amendment No. 5” and collectively referred to as the “PSDA”) for the SilverRock Resort Project, renamed Talus project. Under Amendments Nos. 4 and 5, SDC and the City memorialized the then City-approved Revised Capitalization that was presented to the City by SDC.

Pursuant to letters from the City to SDC, dated July 1 and August 1, 2024 (Attachment 2), respectively, the City declared that SDC is in full breach of the PSDA and that SDC no longer has any rights as “Developer” under the PSDA for failure to timely cure, and inability to ever cure, the Defaults identified in those letters.

Furthermore, as explained in the City’s August 1, 2024, letter, the City identified a material misstatement made by SDC (Attachment 3 – August 1, 2024, letter by The Robert Green Company) by promulgating SDC has the authority to determine whether CMG, one of multiple parties to the Memorandum of Understanding and Agreement Relating to Default and Developer Requirements (PSDA) (MOU), dated May 24, 2024, as defined therein, “has no further rights, liabilities, or obligations under the MOU or the PSDA or in connection with the Developer-Held Properties.” To the contrary, as explained by the City, SDC failed to perform under the MOU, willfully took actions to frustrate the ability for CMG and other parties to perform under the MOU, and no longer has any rights as the “Developer” under the PSDA.

In this regard, the City’s Term Sheet (Attachment 1) addressed to CMG, dated August 2, 2024, outlines the efforts by the City to continue with effectuating the transactions that were set forth in the MOU, given the frustration of purpose and bad faith actions taken by SDC.

The Term Sheet outlines the terms and conditions, with details and implementing provisions to be more fully developed and agreed upon in the Interim Agreement, to proceed with having CMG assume and become the “Developer” for the Talus project under the PSDA.

The City, CMG, and other parties to the MOU have expressed interest in moving forward with an Interim Agreement with more specifics to implement the acquisition of properties by CMG and transfer of rights and obligations to CMG, upon acquisition of those properties, as “Developer” under the PSDA. So that the City may enter into the Interim Agreement upon mutual agreement of its final terms by the parties, it is recommended the City Manager is granted the authority to execute the Interim Agreement as long as it is generally consistent with the provisions outlined in the Term Sheet. If the City Manager

is concerned that the Interim Agreement may require further review by the Council because, after negotiations with CMG and other parties, it is not generally consistent with the provisions outlined in the Term Sheet, then the Interim Agreement would be brought to Council for review and comment before the City Manager would enter into the Agreement on behalf of the City.

ALTERNATIVES

Staff does not recommend an alternative.

Prepared and Approved by: Jon McMillen, City Manager

Attachments:

1. August 2, 2024 – Term Sheet and Letter of Intent from City to Christopher M. George regarding Interim Agreement for Transfer of Developer Rights and Obligations
2. August 1, 2024 – Letter regarding Failure to Cure Notice and Confirmation of Default – Purchase, Sale, and Development Agreement between City and SilverRock Development Company
3. August 1, 2024 – The Robert Green Company – Notice of Termination of MOU and Agreement Relating to Default and Developer Requirements (PSDA), dated May 24, 2024

ATTACHMENT 1



August 2, 2024

VIA E-MAIL

Christopher M. George
3160 Crow Canyon Road, Suite 400
San Ramon, California 94583
Email: cgeorge@cmgfi.com

Re: Term Sheet and Letter of Intent
Interim Agreement for Transfer of Developer Rights and Obligations

Dear Mr. George:

As public records reflect, the City of La Quinta ("City") and SilverRock Development Company, LLC ("SDC"), entered into a Purchase, Sale, and Development Agreement on or about November 19, 2014 ("Original PSDA"), as amended by that certain Amendment No. 1 dated on or about October 29, 2015 ("Amendment No. 1"), that certain Amendment No. 2 dated on or about April 18, 2017 ("Amendment No. 2"), that certain Amendment No. 3 dated on or about November 28, 2018 ("Amendment No. 3"), that certain Amendment No. 4 dated on or about October 12, 2021 ("Amendment No. 4"), and that certain Amendment No. 5 dated on or about November 16, 2023 ("Amendment No. 5" and collectively referred to as the "PSDA") for the SilverRock Resort Project, renamed Talus project (the "Project"). Under Amendments Nos. 4 and 5, SDC and the City memorialized the then City-approved Revised Capitalization that was presented to the City by SDC.

Pursuant to letters from the City to SDC, dated July 1 and August 1, 2024, respectively, the City declared that SDC is in full breach of the PSDA and that SDC no longer has any rights as "Developer" under the PSDA for failure to timely cure, and inability to ever cure, the Defaults identified in those letters (copies of which are attached for reference).

Furthermore, as explained in the City's August 1, 2024 letter, the City identified a material misstatement made by SDC by promulgating SDC has the authority to determine whether CMG, one of multiple parties to the MOU (as defined therein) "has no further rights, liabilities, or obligations under the MOU or the PSDA or in connection with the Developer-Held Properties." To the contrary, as explained by the City, SDC failed to perform under the MOU, willfully took actions to frustrate the ability for CMG and other parties to perform under the MOU, and no longer has any rights as the "Developer" under the PSDA.

In this regard, the City sends this Term Sheet and Letter of Intent to outline the efforts by the City to continue with effectuating the transactions that were set forth in the MOU, given the frustration of purpose and bad faith actions taken by SDC. Please be reminded that this letter is an outline, albeit delivered to be as informative as possible, and any and all actions described below are and will be subject to final review and approval by the City Council and memorialized in a binding, written agreement (for reference, described as the "Interim Agreement").

Term Sheet/Statement of Terms

With those provisions, the City sets forth the following terms and conditions ("Term Sheet"), with details and implementing provisions to be more fully developed and agreed upon in the Interim Agreement, to proceed with having CMG assume and become the "Developer" for the Project under the PSDA:

1. Parties to the Interim Agreement are proposed to be same parties as in the MOU, *except* SDC and the SDC-affiliated entities. Upon mutual agreement of the City and CMG, other parties may be added to the Interim Agreement.
2. If CMG acquires by foreclosure sale the real property covering the secured interest described in the Second Deed of Trust with Cypress Point Holdings ("Cypress") as named beneficiary, County Recorder Doc. No. 2022-0486431 ("Cypress Deed of Trust"), which real property is referred to in this Term Sheet as the "Core Project Components Property," and as a result of the foreclosure sale the fee interest in the Core Project Components Property vests with CMG, then the City will approve CMG as the "Developer" for the Project and will accept CMG's assumption of the rights and obligations under the PSDA for the Core Project Components Property. The City and CMG will then negotiate and amend the PSDA (or enter into another agreement as mutually agreeable to the City and CMG), to memorialize the mutually agreed-upon modifications to the PSDA with CMG proceeding as the "Developer" of the Project, and in connection therewith, the City will want to address the following:
 - a. The daily reduction in rebates based on TOT receipts for the Luxury and Lifestyle Hotels, as described in Section 6 of Amendment No. 5, will need to have revised the completion dates of the two hotels. New dates will be mutually agreed upon by City and CMG, and these will become the new dates for calculating any reductions. In explanation of this, if the hotels are completed on schedule per a new amendment to the PSDA (for reference, "Amendment No. 6"), then there will be no reductions to the TOT rebate. Currently, the TOT rebate has 90%

available for first 10 years, and 70% for the remaining 5 years, of a total 15-year rebate term.

- b. The Schedule of Performance will need to be adjusted based on new schedules provided by the general contractor, with an added contingency for minor delays, and will include force majeure provisions to be approved by City Manager and CMG. This new Schedule of Performance will be incorporated into Amendment No. 6.
- c. The Purchase Price for the Future Resort Property (as defined in the PSDA) will be Two Million Five Hundred Thousand Dollars (\$2,500,000) as identified in Amendment No. 4, and will not be subject to the "Financial Incentive Reductions" incurred by SDC, as the previous "Developer."

3. If CMG acquires the Core Project Components Property, then the City will exercise its rights under the PSDA and respective repurchase Option Agreements (County Recorder Doc. Nos. 2018-0464676 and 2018-0464677, and referred to as the "Repurchase Option Agreements"), as applicable for the repurchase of the property constituting the Luxury Branded Residential Project Component (formerly Parcel 1 of Parcel Map No. 37207 and subdivided as Tract Map No. 37730 [Lots 1-29 & Lots A-L], and referred to as the "Luxury Branded Residences Property") and the undeveloped land consisting of Planning Areas 7, 8, and 9 (Parcels 10, 11, and 12 of Parcel Map 37207, and referred to as the "PA7,8,9 Property") (collectively, the Luxury Branded Residences Property and the PA7,8,9 Property is referred to as the "Repurchase Options Properties"). The City will assign all of its rights and obligations under the Repurchase Option Agreements to CMG, and CMG will assume all rights and obligations under the Repurchase Option Agreements. The City will also exercise its right under the PSDA to acquire from SDC all "Plans" related to the Project (such as blueprints, drawings, studies, and other work product relating to the construction of the Project). The City will assign to CMG all of its rights acquire the Plans, and CMG will assume all rights and obligations to acquire the Plans.

4. If CMG acquires the Core Project Components Property, then CMG must acquire the fee interest in the Luxury Branded Residences Property either by foreclosure sale or grant deed executed by SDC to CMG through the Repurchase Option Agreement process, and CMG must acquire the fee interest in the PA7,8,9 Property either by foreclosure sale or grant deed executed by SDC to CMG through the Repurchase Option Agreement process.

5. If CMG acquires the Core Project Components Property, then CMG must: (a) pay-off (or assume on restructured terms) all debts owed by SDC to Poppy Bank ("Poppy"), which debt is secured by that certain Deed of Trust with Poppy as named beneficiary (County

Recorder Doc. No. 2021-0628130, and referred to as the “Poppy Deed of Trust”), so that the recorded documents relating to the Poppy foreclosure sale are removed from title; and (b) pay-off all debts owed by SDC to RD Olson Construction, Inc. (“Olson”) and its respective subcontractors, and Granite Construction Company (“Granite”), in the respective amount stipulated or agreed between SDC and such contractor/subcontractor, including all stipulated or agreed interest accrued through payment date, in satisfaction of SDC’s contractual obligations and all mechanic’s liens that have been recorded against the SDC-held properties relating to Olson’s (and Olson’s subcontractors’) and Granite’s completed work and said claims filed in Riverside County Superior Court.

6. If CMG acquires the Core Project Components Property, then CMG must enter into a binding agreement with Montage North America, LLC (“Montage”) to serve as the hotel operator and manager of the Project Components comprised of the Luxury and Lifestyle Branded Hotels, and the Luxury and Lifestyle Branded Residences.

7. If CMG acquires the Core Project Components Property, and if the City exercises its rights under the Repurchase Option Agreements, CMG agrees to deposit into escrow funds that City and CMG determine to be sufficient to cover 100% of the costs to repurchase from SDC the Luxury Branded Residences Property and PA7,8,9 Property.

8. If CMG acquires the Core Project Components Property, and if the City exercises its rights under the Repurchase Option Agreements, then the City agrees that it will continue to prosecute its civil claims against SDC in Riverside County Superior Court, and CMG agrees to join in that litigation as a Co-Plaintiff or Plaintiff in Intervention if necessary or proper to effectuate the statement of terms generally outlined herein and terms and conditions in the Interim Agreement, once executed by the parties thereto.

9. CMG must provide to the City, for review and approval by the City, CMG’s proposed financing and related agreements, pro-formas, and other documents, for the purpose of confirming CMG’s implementation for remediating the partial improvements on the properties held by SDC, and remobilizing and completing the construction of the Core Project Components (as defined in Amendment No. 5, and referred to in the MOU as the “CMG Proposed Plan”), with the first Project Components to be completed being the Permanent Golf Clubhouse and Luxury Hotel (as defined in the PSDA).

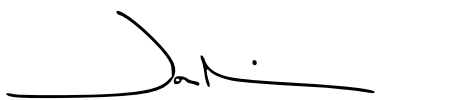
10. The City will work to have all necessary recorded documents assigned or replaced, and where necessary, these recorded documents may need to be acknowledged by other secured interests as having priority if they are replaced instead of assigned.

11. In order for the terms of the PSDA (including amendments thereto) to be effective, CMG must have ownership of all property currently owned by SDC (or SDC affiliate).

12. Ultimately, the City Council is required to approve all assignments and amendments to the PSDA or any new agreements as may be required and described above.

One last advisory note: The real property and property descriptions that are referenced in this Term Sheet, and that would be included in the Interim Agreement, shall be construed and interpreted to mean the most-current legal descriptions and boundaries of property currently held by SDC (or SDC affiliate). In explanation of the foregoing, the MOU referenced the "Phase 1A Property," "Phase 1B Property," and "City Approved LLAs [Lot Line Adjustments]", and defined that as the "Developer-Held Properties." For purposes of this Term Sheet and the Interim Agreement, the properties discussed in this Term Sheet are intended to include all of the "Developer-Held Properties" as defined in the MOU even though different defined terms are used in this Term Sheet for purposes of sequencing the acquisition of all properties by CGM.

Should you have any questions, please contact me at (760) 777-7100.



Jon McMillen, City Manager

cc: Bill Ihrke, City Attorney (via email)

<p>Michelman & Robinson, LLP 10880 Wilshire Blvd., 19th Floor Los Angeles, CA 90024 Attn: Edward D. Vaisbort, Esq. Attn: Eric Rans, Esq. evaisbort@mrlip.com ERans@mrlip.com</p>	<p>Abbey, Weitzenberg, Warren & Emery 100 Stony Point Rd, Ste. 200 Santa Rosa, CA 95401 Attn: Mitchell B. Greenberg, Esq. mgreenberg@abbeylaw.com</p>
<p>Watt, Tieder, et al., LLP 4 Park Plaza, Suite 1000 Irvine, CA 92614 Attn: David McPherson Email: dmcpherson@watttieder.com</p>	<p>Finch, Thornton & Baird, LLP 4747 Executive Drive San Diego, CA 92121 Attn: Andrea L. Petray Email: apetray@ftblaw.com</p>
<p>Rodriguez Wright LLP Attn: Stephen M. Wright, Esq. Email: swright@rodriguezwright.com</p>	

ATTACHMENT 2



August 1, 2024

**VIA E-MAIL AND
REGISTERED FIRST CLASS MAIL
RETURN RECEIPT REQUESTED**

SilverRock Development Company, LLC
c/o The Robert Green Company
3551 Fortuna Ranch Road
Encinitas, CA 92024
Attention: Robert Green

Re: Failure to Cure Notice and Confirmation of Default
Purchase, Sale, and Development Agreement

Robert:

This letter serves to memorialize that, as of July 31, 2024, SilverRock Development Company, LLC ("SDC") did not cure the Defaults as more specifically described in that certain letter from the City, dated July 1, 2024, a copy of which is attached hereto (the "City's July 1 Notice of Default"; additionally, all capitalized words in this letter shall have the same meanings ascribed to them in the City's July 1 Notice of Default unless otherwise noted). Therefore, pursuant to Section 501 of the Original PSDA, SDC is in default, with no right to cure, and SDC no longer has any rights as "Developer" under the PSDA.

Specifically, SDC has not, and cannot, perform the Defaults noted in the July 1, 2024 Notice of Default: (a) failure to deliver a copy to the City Attorney and City Manager of all loan documents in a sufficiently final draft form for the Bridge Loans and Recapitalization Loans by June 30, 2024, and (b) failure to close on the Recapitalization Loans with the Recapitalization Lenders by June 30, 2024.

Furthermore, the City is compelled to correct a material misstatement made in a letter, dated August 1, 2024 (12:01 am), from the Robert Green Company, promulgating that SDC has the authority to determine whether CMG, one of multiple parties to the MOU "has no further rights, liabilities, or obligations under the MOU or the PSDA or in connection with the Developer-Held Properties." As clearly explained in the City's July 1 Notice of Default, "Provided that Developer and Developer's affiliated entities **perform, and perform to completion**, under [MOU] . . . , Developer shall be deemed by the City to be taking actions to cure the Defaults identified in the Notice of Default." [Emphasis added.]



SDC did not perform under the MOU, which frustrated the ability for not only SDC to complete its obligations for assignment of rights and properties to CMG, but frustrated all parties' ability to perform. In fact, SDC willfully took unauthorized actions to prevent the parties to the MOU from being able to perform.

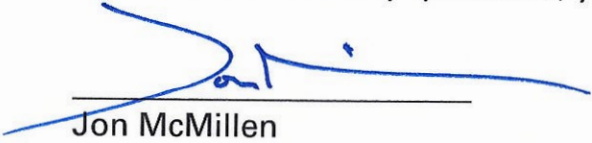
As referenced in the July 10, 2024 Cease and Desist Demand from the City Attorney's Office, SDC, without the City's knowledge or approval, executed and recorded mechanics liens for the benefit of SDC (or SDC-affiliated entities) and deeds of trust for unknown, unauthorized, and unapproved purported financing sources of the Project. The "Purported Secured Interests" as described in the Cease and Desist Demand were willfully in violation of the City's rights under Sections 211, 311.1, and other sections of the PSDA, which require SDC (or any SDC entity) to obtain the City's prior approval for any financing of the infrastructure improvements and various project components in connection with the Project. In other words, SDC was required to obtain the City's prior approval before recording any of the Purported Secured Interests, but SDC failed to do so—and SDC continues to defy the City's demand to remove these unauthorized documents from record title on any of the properties.

Given the bad faith under which SDC has acted since the City's July 1 Notice of Default—where SDC took actions and wrote statements in direct contradiction to the manner in which SDC was instructed to cure the default for failing to close by June 30, 2024 on the Recapitalization Loans—the City has no choice but to declare that SDC is in full breach of the PSDA and that SDC no longer has any rights as "Developer" under the PSDA.

Moreover, the actions taken by SDC to frustrate the performance of the parties under the MOU, coupled with the August 1, 2024 Robert Green Company letter, provide clear evidence that SDC does not have the capacity or ability to perform the obligations of the "Developer" as defined in the PSDA.

Finally, pursuant to Sections 508 and 509 of the Original PSDA and Section 7.1 of Amendment No. 5, the City retains and reserves all of its rights cumulatively, and does not waive any other default(s) that Developer may otherwise now or in the future have by delivery of this letter.

Should SDC have any questions, you may contact me at (760) 777-7100.



Jon McMillen
City Manager

cc: Bill Ihrke, City Attorney (via email)
 Parties listed:

<p>The Robert Green Company 343 Fourth Ave San Diego, CA 92101 Attention: Robert Green robert@therobertgreencompany.com</p>	<p>Crosbie Gliner Schiffman et al. 12750 High Bluff Drive, Suite 250 San Diego, California 92130 Attention: Dana Schiffman Attention: Thomas Crosbey dschiffman@cgs3.com tcrosbie@cgs3.com</p>
<p>Caldarelli Hejmanowski Page & Leer 3398 Carmel Mountain Road Suite 250 San Diego, CA 92121 Attention: William Caldarelli, Esq. wjc@chpllaw.com</p>	<p>Clinton L. Blain, Attorney at Law 3990 Old Town Avenue, Suite B-101 San Diego, CA 92110 Attention: Clinton Blain, Esq.</p>
<p>Michelman & Robinson, LLP 10880 Wilshire Blvd. 19th Floor Los Angeles, CA 90024 Attn: Edward D. Vaisbort, Esq. Attn: Eric Rans, Esq. evaisbort@mrlp.com ERans@mrlp.com</p>	<p>Abbey, Weitzenberg, Warren & Emery 100 Stony Point Rd, Ste. 200 Santa Rosa, CA 95401 Attn: Mitchell B. Greenberg, Esq. mgreenberg@abbeylaw.com</p>
<p>Watt, Tieder, et al., LLP 4 Park Plaza, Suite 1000 Irvine, CA 92614 Attn: David McPherson Email: dmcpherson@watttieder.com</p>	<p>Finch, Thornton & Baird, LLP 4747 Executive Drive San Diego, CA 92121 Attn: Andrea L. Petray Email: apetray@ftblaw.com</p>
<p>Rodriguez Wright LLP Attn: Stephen M. Wright, Esq. Email: swright@rodriguezwright.com</p>	



First Pathway Partners Attn: Dan Wycklendt 311 E. Chicago Street, Suite 510 Milwaukee, WI 53202	Keillor Capital Attn: Eric Keillor 2429 W. Coast Hwy, suite 210 Newport Beach, CA 92663
Silver Arch Capital Attn: Jeff Wolfer 411 Hackensack Ave, Suite 803 Hackensack, NJ 07601	Ziegler Investment Banking Attn: Aaron Gadouas One North Wacker Drive, Suite 2000 Chicago, Illinois 60606



July 1, 2024

**VIA E-MAIL AND
REGISTERED FIRST CLASS MAIL
RETURN RECEIPT REQUESTED**

SilverRock Development Company, LLC
c/o The Robert Green Company
3551 Fortuna Ranch Road
Encinitas, CA 92024
Attention: Robert Green

Re: Notice of Default of Purchase, Sale, and Development Agreement
Amendment No. 5

Robert:

As public records reflect, the City of La Quinta ("City") and SilverRock Development Company, LLC ("Developer" or "SDC"), entered into a Purchase, Sale, and Development Agreement on or about November 19, 2014 ("Original PSDA"), as amended by that certain Amendment No. 1 to PSDA dated on or about October 29, 2015 ("Amendment No. 1"), that certain Amendment No. 2 to PSDA dated on or about April 18, 2017 ("Amendment No. 2"), that certain Amendment No. 3 to PSDA dated on or about November 28, 2018 ("Amendment No. 3"), that certain Amendment No. 4 dated on or about October 12, 2021 ("Amendment No. 4") and that certain Amendment No. 5 dated on or about November 16, 2023 ("Amendment No. 5" and collectively referred to as the "PSDA") for the SilverRock Resort Project, renamed Talus project (the "Project"). Under Amendments Nos. 4 and 5, the Developer and City memorialized the City-approved Revised Capitalization that was then presented to the City by Developer.

Revised Capitalization & Schedule of Performance

Recital K, Sections 2 and 3, and the revised Schedule of Performance of Amendment No. 5 address Developer's obligations with respect to the "Bridge Loans," "Recapitalization Lenders," and "Recapitalization Loans" (all as defined therein). Additionally, pursuant to Sections 2 and 7.9 of Amendment No. 5, Developer had the obligations to deliver to the City Attorney and City

Manager for review a copy of all loan documents in a sufficiently final draft form relating to the Bridge Loans and Recapitalization Loans.



Pursuant to the revised Schedule of Performance in Amendment No. 5, Developer was to use diligent efforts to complete the closing of the Recapitalization Loans by January 1, 2024; provided, however, that, pursuant to Section 3 of Amendment No. 5 and Footnote 1 of the revised Schedule of Performance, Developer had until June 30, 2024, as the outside date to close on the Recapitalization Loans.

Default and Cure

YOU ARE HEREBY ON NOTICE that, pursuant to Section 501 of the Original PSDA, which remains binding and operative pursuant to Section 7.1 of Amendment No. 5, the City hereby declares the Developer in "Default" of its obligations under the PSDA. This letter serves as written Notice of the Default and cure of the Default is governed by Article 500, and specifically Section 501, of the Original PSDA. In accordance with Section 501, Developer shall have thirty (30) days from receipt of this Notice of Default to cure the Defaults referenced herein: (a) failure to deliver a copy to the City Attorney and City Manager of all loan documents in a sufficiently final draft form for the Bridge Loans and Recapitalization Loans, and (b) failure to close on the Recapitalization Loans with the Recapitalization Lenders.

Provided that Developer and Developer's affiliated entities perform, and perform to completion, under that certain MEMORANDUM OF UNDERSTANDING AND AGREEMENT RELATING TO DEFAULT AND DEVELOPER REQUIREMENTS ("MOU") dated May 24, 2024 ("MOU"), by and among the City, Developer (and Developer's affiliated entities), Poppy Bank ("Poppy"); Cypress Point Holdings, LLC ("Cypress"), RD Olson Construction, Inc. ("Olson"), Granite Construction Company ("Granite"), Montage North America, LLC ("Montage"), and Christopher M. George ("CMG," and collectively, all parties to the MOU are referred to as the "MOU Parties"), Developer shall be deemed by the City to be taking actions to cure the Defaults identified in the Notice of Default.

Additionally, the City hereby retains and reserves any and all rights and remedies available at law or in equity, including those available under any and all provisions of the MOU, that certain AGREEMENT TO WAIVE AND MODIFY NOTICE AND CURE PERIOD (PURCHASE, SALE, AND DEVELOPMENT AGREEMENT) (Cypress Point Holdings LLC Trustee Notice), dated February 7, 2024, between City and Developer (the "Waiver And Modification Agreement"), and the PSDA (including Amendment No. 5), due to Developer's Default and any and all anticipatory default(s). Additionally, pursuant to Sections 508 and 509 of the Original PSDA and Section 7.1 of Amendment No. 5, the City retains and reserves all of its rights cumulatively, and does not



waive any other default(s) that Developer may otherwise now or in the future have by delivery of this Notice of Default.

Should you have any questions and to schedule a meeting, please contact me at (760) 777-7100.

Sincerely,



Jon McMillen
City Manager

cc: Bill Ihrke, City Attorney (via email)

<p>Clinton L. Blain, Attorney at Law 3990 Old Town Avenue, Suite B-101 San Diego, CA 92110 Attention: Clinton Blain, Esq.</p>	<p>Crosbie Gliner Schiffman et al. 12750 High Bluff Drive, Suite 250 San Diego, California 92130 Attention: Dana Schiffman Attention: Thomas Crosbey dschiffman@cgs3.com tcrosbie@cgs3.com</p>
<p>Caldarelli Hejmanowski Page & Leer 3398 Carmel Mountain Road Suite 250 San Diego, CA 92121 Attention: William Caldarelli, Esq. wjc@chpllaw.com</p>	
<p>Michelman & Robinson, LLP 10880 Wilshire Blvd. 19th Floor Los Angeles, CA 90024 Attn: Edward D. Vaisbort, Esq. Attn: Eric Rans, Esq. evaisbort@mrlip.com ERans@mrlip.com</p>	<p>Abbey, Weitzenberg, Warren & Emery 100 Stony Point Rd, Ste. 200 Santa Rosa, CA 95401 Attn: Mitchell B. Greenberg, Esq. mgreenberg@abbeylaw.com</p>



First Pathway Partners Attn: Dan Wycklendt 311 E. Chicago Street, Suite 510 Milwaukee, WI 53202	Keillor Capital Attn: Eric Keillor 2429 W. Coast Hwy, suite 210 Newport Beach, CA 92663
Silver Arch Capital Attn: Jeff Wolfer 411 Hackensack Ave, Suite 803 Hackensack, NJ 07601	Ziegler Investment Banking Attn: Aaron Gadouas One North Wacker Drive, Suite 2000 Chicago, Illinois 60606



August 1, 2024 (12:01 am)

Sent via email, read confirmation requested

City of La Quinta
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La Quinta, CA 92253
Attention: Jon McMillen, City Manager
Email: jmcmillen@laquintaca.gov

Granite Construction Corporate
Headquarters
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Watsonville, CA 95076
Attn: Jordy Murray, Deputy Senior
Counsel Email: Jordy.Murray@gcinc.com

Poppy Bank
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Santa Rosa, CA, 95401
Attn: Ed Gomez Attn: Lisa Mills
Email: egomez@poppy.bank;
lmills@poppy.bank

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Irvine, CA 92618
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Email: jason.herthel@montage.com

Cypress Ascendant Holdings, LLC
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San Diego, CA 92130 Attn: Bill Trzos
Email: bill@cypress-ascendant.com

CMG
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San Ramon, California 94583
Attn: Christopher George
Email: cgeorge@cmqfi.com

R.D. Olson Construction
400 Spectrum Center Drive, Suite 1200
Irvine, CA 92618
Attn: William Wilhelm
Email: BWilhelm@rdolson.com

Re: Notice of Termination of MEMORANDUM OF UNDERSTANDING AND AGREEMENT RELATING TO DEFAULT AND DEVELOPER REQUIREMENTS (PURCHASE, SALE, AND DEVELOPMENT AGREEMENT) (the "MOU") dated May 24, 2024

Dear Mr. McMillen and all other parties to the referenced MOU:

I call your attention to Section 4.5 to the MEMORANDUM OF UNDERSTANDING AND AGREEMENT RELATING TO DEFAULT AND DEVELOPER REQUIREMENTS (PURCHASE, SALE, AND DEVELOPMENT AGREEMENT) (the "MOU") dated May 24, 2024, which states, in part:

"CMG shall pay-off all Developer Unpaid Obligations no later than thirty (30) days after July 1, 2024 (i.e., July 31, 2024, and referred to as the 'Developer Unpaid Obligations Payment Deadline'), unless the creditor and/or beneficiary of an Developer Unpaid Obligation expressly consents to nonpayment of the Developer Unpaid Obligation by delivering written notice, no later than July 15, 2024, to the Parties, that said creditor/beneficiary has voluntarily agreed to an accord and satisfaction for the debt owed and no sale at auction will be pursued by said creditor/beneficiary for payment (in whole or in part) of the Developer Unpaid Obligation..."

August 1, 2024



Section 4.5 of the MOU further states that:

“If CMG fails to make any required payment on the terms and conditions set forth in this Section 4.5, this MOU shall automatically terminate, and CMG shall have no further rights, liabilities or obligations under this Agreement.”

CMG has failed to pay all required payments on the terms and conditions set forth in Section 4.5 of the MOU. Furthermore, the creditors/beneficiaries have not voluntarily agreed to an accord and satisfaction for the debt owed nor provided any notice of any such agreements.


Therefore, the Developer, as defined in the MOU, hereby confirms that the MOU is terminated, and CMG henceforth has no further rights, liabilities or obligations under the MOU or the PSDA or in connection with the Developer-Held Properties.

Thank you,

SILVERROCK DEVELOPMENT COMPANY, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation

Its: Manager

By: 
Robert S. Green, Jr., President

SILVERROCK PHASE I, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation


Its: Manager

By: 
Robert S. Green, Jr., President

SILVERROCK LODGING, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation

Its: Manager

By: 
Robert S. Green, Jr., President

August 1, 2024



SILVERROCK LUXURY RESIDENCES, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation


Its: Manager

By: 
Robert S. Green, Jr., President

SILVERROCK LIFESTYLE RESIDENCES, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation

Its: Manager

By: 
Robert S. Green, Jr., President

RGC PA 789, LLC,
a Delaware limited liability company

By: THE ROBERT GREEN COMPANY,
a California corporation

Its: Manager

By:
Robert S. Green, Jr., President

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August 1, 2024



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