

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS DATE: 7/30/16

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

542
 (2220)



SUBMITTAL DATE:
 September 13, 2016

FROM: Economic Development Agency

SUBJECT: Second Amendment to Offer And Agreement to Purchase Real Property, Palm Desert, California; CEQA Exempt, District 4 [\$0] 100% Sale Proceeds

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Second Amendment To Offer And Agreement To Purchase Real Property does not constitute a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378;
2. Approve the Second Amendment To Offer And Agreement To Purchase Real Property and authorize the Chairman of the Board of Supervisors to execute the same; and
3. Authorize the Assistant County Executive Officer of the Economic Development Agency, or his designee, to execute any other documents and administer all actions necessary to complete or memorialize this transaction.

BACKGROUND:

Summary

(Commences on Page 2)

[Handwritten Signature]

Robert Field
 Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: 100% Sale Proceeds	Budget Adjustment: No
	For Fiscal Year: 2016/17

C.E.O. RECOMMENDATION:

APPROVE

BY: Rohini Dasika
 Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: 3-21 of 11/10/2015
 3.26 of 04/12/2016

District: 4

Agenda Number:

3-17

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

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FORM 11: Second Amendment to Offer And Agreement to Purchase Real Property, Palm Desert, California;
CEQA Exempt, District 4 [\$0] 100% Sale Proceeds

DATE: September 13, 2016

PAGE: 2 of 2

BACKGROUND:

Summary

On November 10, 2015, Minute Order 3-21, the Board of Supervisors adopted Resolution 2015-102, which approved an Offer and Agreement to Purchase Real Property (Original Agreement). The property which consists of 17.11 acres of commercially zoned County owned vacant land is located on the northeast corner of the intersection of Monterey Avenue and Dinah Shore Drive in the City of Palm Desert, County of Riverside, State of California, specifically identified as Assessor Parcel Number 685-020-020 (formerly identified as APN 685-020-014).

Under the Original Agreement, Fountainhead Shrugged, LLC, (Buyer) deposited \$50,000 into escrow. The agreement stipulated that the deposit would become non-refundable after 121 days but applicable to the purchase price. On April 12, 2016, Minute Order 3-26, the Board of Supervisors approved the First Amendment to Offer And Agreement to Purchase Real Property (First Amendment), which extended and modified the period for the deposit to become non-refundable from 121 days to 301 days. The term extension allowed the Buyer additional time to resolve title and development issues without having to relinquish their deposit.

Additionally, under the Original Agreement, the Buyer was granted a period of two-hundred and seventy days from the execution of the agreement (Contingency Period) to complete its due diligence for the purchase, with the option to extend it by two periods of thirty days. The property is being sold "As-Is" with no guarantees to condition and title. The Buyer has requested additional time to complete their due diligence, and under the proposed Second Amendment to Offer and Agreement to Purchase Real Property (Second Amendment) the County shall grant Buyer one final extension of the Contingency Period for one six month period.

Pursuant to California Environmental Quality Act Guidelines Section 15378, a project is defined by the whole of an action, which has a potential for resulting in a direct or indirect physical change in the environment. Furthermore, it can be seen with certainty that (as it only involves an extension of time for the Buyer's deposit to become non-refundable) the attached Second Amendment to Offer and Agreement to Purchase Real Property will result in no physical change to the environment and is not a "project" under CEQA.

The attached Second Amendment to Offer and Agreement to Purchase Real Property has been reviewed and approved as to form by County Counsel.

Impact on Citizens and Businesses

The sale of this site by the County will generate important revenue for County purposes and services. The eventual and proposed development of the site will generate property and sales tax revenue as well as create hundreds of short-term construction jobs, and long-term service jobs for this area of the County.

Attachments:

Second Amendment to Offer and Agreement to Purchase Real Property (4)

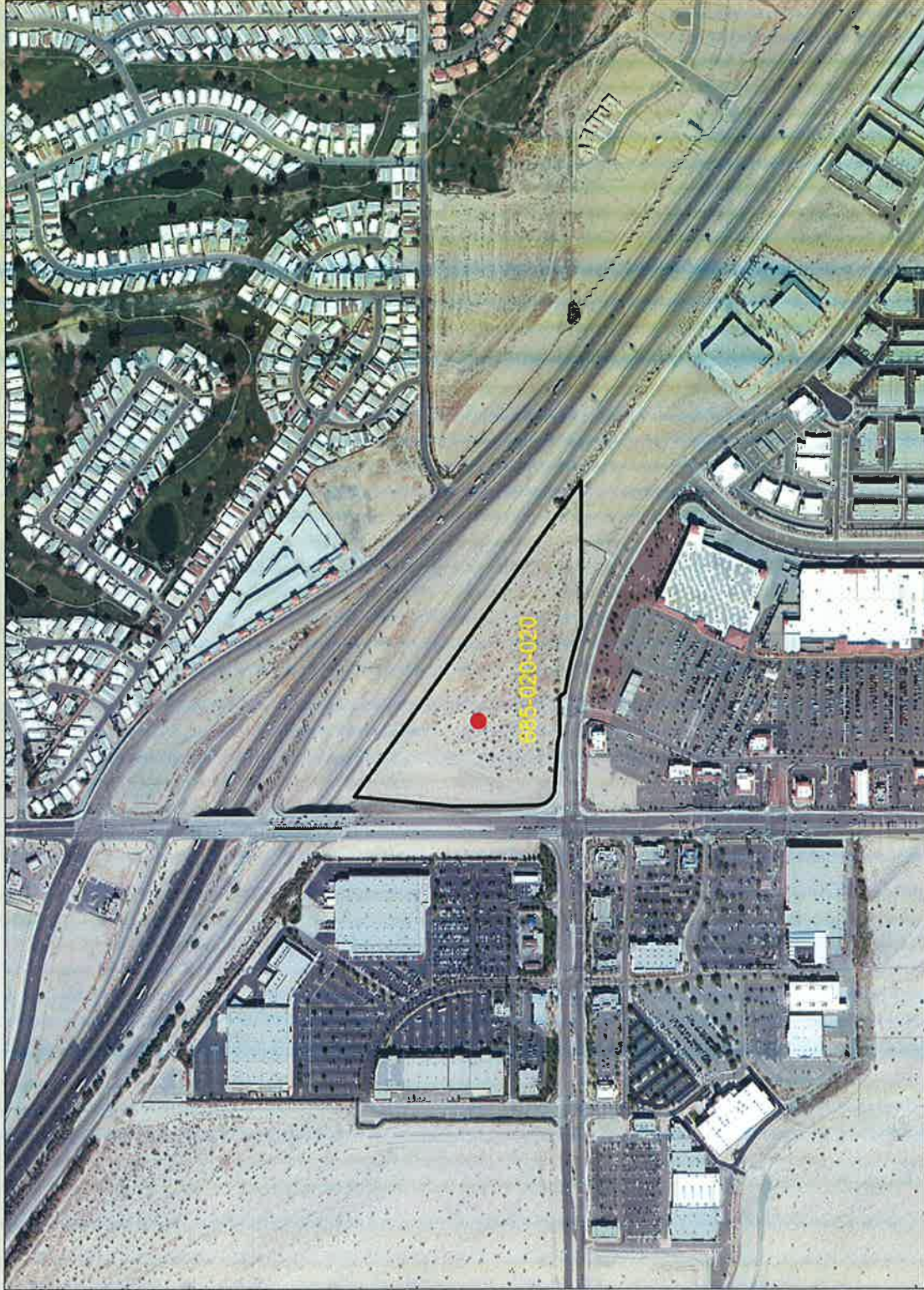
Aerial Image

Second Amendment to Offer and Agreement to Purchase

Between Monterey Avenue and Dinah Shore Drive, Palm Desert



Legend



Notes
APN: 685-020-020

IMPORTANT Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.



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REPORT PRINTED ON... 8/25/2016 10:56:30 AM

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**SECOND AMENDMENT TO OFFER AND AGREEMENT TO
PURCHASE REAL PROPERTY**

THIS **SECOND AMENDMENT TO OFFER AND AGREEMENT TO PURCHASE REAL PROPERTY** (this "**Amendment**"), dated as of _____, 2016, is entered into by and between the **County of Riverside**, a political subdivision of the State of California, as "**Seller**", and **Fountainhead Shrugged, LLC**, a California limited liability company, as "**Buyer**", sometimes collectively referred to as the "Parties".

RECITALS

A. Seller and Buyer have entered into that certain Offer and Agreement to Purchase Real Property, dated November 10, 2015, as amended by that certain First Amendment to Offer and Agreement to Purchase Real Property, dated as of April 14, 2016, (collectively, the "**Agreement**"), pursuant to which Seller has agreed to sell to Buyer and Buyer has agreed to purchase from Seller approximately 17.11 acres of vacant land located at Monterey Avenue and Dinah Shore Drive, in Palm Desert, California, specifically identified as Assessor's Parcel Number 685-020-020 (formerly identified as APN: 685-020-014), consisting of approximately 17.11 acres of vacant land (the "Property").

B. The Parties now desire to amend the Agreement to provide a final Contingency Period extension.

NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The last paragraph of Section 5 on page three of the Agreement is hereby deleted in its entirety and replaced with the following:

"BUYER shall have the right to extend the Contingency Period for two (2) periods of thirty (30) days each by providing SELLER and Escrow Agent notice to extend prior to the expiration of the Contingency Period or subsequent extension periods and depositing into Escrow an additional five thousand dollars (\$5,000.00) for each extension. Any such additional deposits shall be immediately non-refundable but applicable toward the Purchase Price at the Close of Escrow.

In addition to any extension of the Contingency Period exercised and paid for by the BUYER as stated above, SELLER shall grant BUYER one final extension of the Contingency Period for one (1) six (6) month period ("Final Extension"). BUYER acknowledges that the SELLER has elected not to remove any exceptions to title and that the Property is being sold "as is". This final extension provides BUYER with time for extended due diligence to satisfy itself as to the acceptability of title and the condition of the Property. Escrow shall close on or before the expiration of the Final Extension Period or BUYER or SELLER may terminate this Agreement by providing notice to Escrow. Consent from the other party shall not be a requirement for such

termination. No further extensions shall be considered or available and none will be granted by the SELLER for any reason.”

2. CAPITALIZED TERMS; AMENDMENT TO PREVAIL. Unless defined herein or the context requires otherwise, all capitalized terms herein shall have the meaning defined in the Agreement. The provisions of this Amendment shall prevail over any inconsistency or conflicting provisions of the Agreement, and shall supplement the remaining provisions thereof.

3. MISCELLANEOUS. Except as amended or modified herein, all the terms of the Agreement, including but not limited to the “as is” condition of the sale pursuant to Section 14 of the Agreement, shall remain in full force and effect and shall apply with the same force and effect. Time is of the essence in this Amendment and the Agreement and each and all of their respective provisions. Subject to the provisions of the Agreement as to assignment, the agreements, conditions and provisions herein contained shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto. If any provision of this Amendment shall be determined to be illegal or unenforceable, such determination shall not affect any other provision hereof and all such other provisions shall remain in full force and effect. The language in all parts of this Amendment shall be construed according to its normal and usual meaning and not strictly for or against either Seller or Buyer.

4. EFFECTIVE DATE. This Amendment shall not be binding or consummated until its approval by the Riverside County Board of Supervisors and fully executed by the Parties.

SIGNATURE PROVISIONS FOLLOW

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

SELLER:
COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: _____
John J. Benoit, Chairman
Board of Supervisors

BUYER:
FOUNTAINHEAD SHRUGGED, LLC, a California limited liability company


By:  _____
Craig Smith, Managing Member

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

(SEAL)

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By:  _____
R. Todd Frahm
Deputy County Counsel