

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

615



FROM: Economic Development Agency

SUBMITTAL DATE:
January 19, 2012

SUBJECT: Exclusive Negotiation Agreement with Palm Communities

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Exclusive Negotiation Agreement with Palm Communities;
2. Authorize the Chairman of the Board of Supervisors to execute said agreement; and
3. Authorize the Assistant County Executive Officer/EDA, or his designee, to take all necessary steps to implement the agreement including, but not limited to, signing subsequent necessary and relevant documents.

BACKGROUND: (Commences on page 2)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: January 31, 2012
xc: EDA

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.: 4.40 of 8/31/10, 3.8 of 9/14/10 **District:** 1/1 **Agenda Number:** _____

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3 0

FORM APPROVED COUNTY COUNSEL
BY:
DATE: 1-18-12
Departmental Concurrence

Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND:

The County of Riverside is the current owner of 9.69 acres of vacant land located at the southeast corner of County Farm Road and Reynolds Road in the City of Riverside, with Assessor Parcel Number's 145-260-011 and 145-260-020. The County issued a request for proposals for the development of an affordable housing project of the site, Palm Communities was selected as the most responsive and qualified developer for the property.

The developer has requested an Exclusive Negotiation Agreement so that the developer can commence the entitlement process for the proposed housing project. The developer is proposing to build a 51-unit multifamily housing complex. The site will be entitled through the City of Riverside Planning Department. The County and developer agree to explore and negotiate in good faith pursuant to the terms of the Exclusive Negotiation Agreement a possible disposition and development agreement or other agreement satisfactory to the County. The exclusive negotiation agreement does not constitute a commitment for conveyance or development of property nor a promise to enter into a disposition and development agreement.

The developer will process the entitlements and seek financing including but not limited to federal and/or state tax credits for the development and construction of the proposed project. One of the funding sources that the developer is applying for is the County of Riverside Mental Health Department Mental Health Services Act Funds and if the project receives this funding there will be 15 units set aside for homeless individuals that are referred by the Department of Mental Health Homeless Housing Opportunities, Partnership, and Education Program.

County Counsel has reviewed and approved the attached agreement. Staff recommends the Board approve the attached agreement.

FINANCIAL DATA:

There are no costs associated with the approval of the attached agreement.

Attachments:

Exclusive Negotiation Agreement

EXCLUSIVE NEGOTIATION AGREEMENT

THIS AGREEMENT TO NEGOTIATE EXCLUSIVELY (the "Agreement") is entered into as of JANUARY 31, 2012 ("Effective Date") by and between the County of Riverside, a political subdivision of the State of California, hereinafter referred to as "County," and Palm Communities a California corporation (the "Developer"), on the basis of the following purposes, intentions, and facts:

RECITALS

A. The Developer is a California corporation whose purpose is to acquire, construct, operate and manage residential properties and is an experienced affordable housing developer; and

B. The County desires to encourage and effectuate the redevelopment of that certain real property Assessor Parcel Number's 145-260-011 and 145-260-020, which consists of approximately 9.69 acres and is generally depicted on the map attached hereto and incorporated herein by reference as Exhibit A (the "Property"); and

C. The County has selected the Developer as its collaborative developer partner due to, among other things, Developer's extensive experience in the development of affordable housing, sustained history of leveraging multiple funding sources, excellent references, and distinguished property management firm; and

D. The County endeavors to preserve, protect, improve and increase the affordable housing stock and eliminate blight in the County; and

E. The County is in need of additional housing that is affordable to low and very low income households; and

F. The County currently owns the Property; and

G. The Developer desires the County to convey the Property to the Developer for the redevelopment of the blighted Property, through the construction of an affordable housing development (sometimes herein referred to as the "Project"); and

H. The parties desire to enter into this Agreement in order to permit the parties to negotiate the terms and conditions of a Disposition and Development Agreement or such other type of agreement as the parties may deem appropriate to specify the rights and obligations of the parties with respect to the disposition and development of the Property (herein referred to as a "DDA").

NOW, THEREFORE, the County and the Developer hereby mutually agreed as follows:

I. Negotiation

A. Good Faith Negotiations

The County and the Developer agree for the Negotiation Period (as hereinafter defined) to negotiate diligently and in good faith to prepare a DDA to be entered into between the County and the Developer with respect to the sale and development of the Property. The County agrees for the Negotiation Period (and the Extension Period if a DDA is signed and submitted by Developer during the Negotiation Period) not to negotiate with any other person or entity to enter into any agreement regarding the acquisition, disposition or development of the Property. "Good faith negotiations" shall mean that the Developer and the County shall use their best efforts to communicate and follow reasonable negotiation procedures to develop a DDA mutually acceptable to the Developer and the County.

Each of the parties will bear its own costs and expenses, including, but not limited to, attorneys' fees, incurred or to be incurred in connection with negotiating and preparing this Agreement and the DDA and in carrying out the obligations under this Agreement (the "Direct Costs").

Should the Developer and County fail to enter into DDA that both parties mutually agree to, County shall not be obligated to reimburse and or compensate Developer for any costs incurred in entitling the Project.

B. Period of Negotiations

The Negotiating Period shall be twenty four (24) months, commencing on the Effective Date, subject to extension as provided below. The Negotiating Period may be extended for an additional six (6)-months period by the written mutual agreement by the County and the Developer. The Assistant County Executive Officer of the County of Riverside Economic Development Agency has the authority to agree to an extension on behalf of the County, if in Assistant County Executive Officer's judgment sufficient progress in accomplishing the tasks set forth in Exhibit B and working toward a mutually acceptable DDA has been made during the initial twenty four (24)-months period to merit such extension.

If a DDA has not been executed by the County and the Developer by the expiration of the Negotiating Period (as the Negotiating Period may be extended by operation of the preceding paragraph), then this Agreement shall terminate, and neither Party shall have any further rights or obligations under this Agreement except as set forth in Section VII. If a DDA is executed by the County and the Developer, then, upon such execution, this Agreement shall terminate and all rights and obligations of the County and Developer shall be as set forth in the executed DDA.

C. Developer's Obligations During the Negotiation Period

The Developer shall within the Negotiating Period (and mutually agreed upon extensions):

1. Investigate the projected costs of redeveloping the Property, including the performance of all related on-site and off-site improvements for the Project.
2. Complete the process for the necessary entitlements required for the Project.
3. Participate in all community meetings related to the Project.
4. Prepare and submit to the County for its review:
 - a. A preliminary site plan and architectural/design concept for the proposed development of the Project.
 - b. A schedule of the development of all structures and improvements proposed for the Project and an estimate of development costs including hard and soft costs.
 - c. An estimate of Project income and a proforma statement of Project return adequate to enable the County to evaluate the economic feasibility of the proposed Project.
 - d. A description of the proposed method of financing and amounts and sources of equity and debt capital.
 - e. The Developer shall provide the County with copies of all completed reports, studies, analyses, and similar documents, but excluding confidential or proprietary information, prepared or commissioned by the Developer with respect to this Agreement and the Development, promptly upon their completion. Including but limited to environmental reports required in the preparation and evaluation of the environmental review under the California Environmental Quality Act.

D. County's Obligations.

The County shall within the Negotiation Period (and any mutually agreed upon extensions):

1. Negotiate exclusively through its staff with the Developer for the redevelopment of the Property.
2. Determine and process, any California Environmental Quality Act ("CEQA") documentation required in connection with the sale of the Property to the Developer and the County's approval of a DDA;

3. Deliver to Developer not later than ten (10) days as of the Effective Date of this Agreement any of the following documents related to the Property which are in possession of the County:
 - a. Any existing surveys.
 - b. Any government permits, licenses and approvals.
 - c. Any contracts or leases or other agreements relating to the Property or any operations thereon.
 - d. Other written documents in the County's possession regarding physical condition of the Property or the improvements thereof or the use or development of the Property.
4. Review Property plans and use its best efforts through the fast track process to assist the Developer in securing any and all Project Entitlements (as hereinafter defined), which may be required by the County or any other Governmental Authorities (as hereinafter defined);
5. Review the Developer's proposal;
6. Cooperate fully in providing the Developer with appropriate information and assistance;
7. Arrange for and obtain, at the County's expense, publication of notices of the public hearing for consideration of the DDA; and

II. Proposed Development

A. Development Concept and Essential Terms and Conditions

The proposed development to be negotiated hereunder shall be for the development of an affordable housing project.

The essential terms and conditions of any such DDA entered into with the Developer shall be in conformance with the following requirements:

1. The Developer agrees to entitle the entire site and develop the development in two phases. The DDA referenced in this agreement will only be for the development of the first phase of the Project. The County at its discretion can choose not to move forward with the second phase of the Project and instead use that portion of the Property for a different use other than an affordable housing development. Should the County decide to move forward with the second phase of the Project, the Developer will be given first right of refusal on phase two of the project.

2. The Developer shall purchase the Property from the County in accordance with the Schedule of Performance to be negotiated as part of the DDA.
3. The Developer shall design and construct the development on the Property, in accordance with a Schedule of Performance to be negotiated as part of the DDA and in accordance with plans and specifications prepared by the Developer and approved by the County.
4. The Developer shall secure in accordance with the Schedule of Performance to be negotiated as part of the DDA, an amendment to the County's General Plan, a change of zone for the Property and any and all entitlements (other than grading or building permits or approvals which are simply ministerial and nondiscretionary in nature) (the "Entitlements"), which may be required by the County or any other governmental County affected by construction and development of the Project (the "Governmental Authorities") to allow development of the Project;
5. Other terms and conditions applicable to the DDA are as follows:
 - a. It is understood by the Developer that design and architectural approval by the County will be required for the development and that sketches, plans, working drawings, specifications and similar documents will be required to be submitted for approval pursuant to the terms and provisions in the DDA.
 - b. It is understood that in developing the Property the Developer will coordinate with the County the design and architectural theme of the Project to be compatible with the surrounding area.

B. Developer's Findings, Determinations, Studies, and Reports

From time-to-time, as reasonably requested by the County, the Developer agrees to make oral and written progress reports, advising the County on all matters related to the development, including financial feasibility analyses, construction cost estimates, marketing studies, and similar due diligence matters. Should negotiations not result in a DDA between the County and the Developer, the County may use the information provided by the Developer in any way deemed by the County to be of benefit to the County.

III. Environmental Requirements

Certain State and local environmental requirements under CEQA may be applicable to the proposed Project. The County Board of Directors will consider the DDA upon submission of County's successful negotiations with Developer on the term and conditions of DDA. The County will act as the "lead County" under CEQA. Accordingly, the Developer agrees to supply information and otherwise cooperate with the County, as requested by the County to determine the environmental impact of the proposed Project, and to allow the County to prepare such

environmental documents as the County may determine to be necessary pursuant to CEQA and the County's guidelines and procedures.

IV. Assignment

Developer shall not assign all or any part of this Agreement without the prior written approval of the County. The County agrees to reasonably give such approval if: (1) the change is to a limited partnership, limited liability company or other entity formed for financing, in which the original Developer or an affiliate of the Developer is a co-general partner (if a limited partnership) or a managing member (if a limited liability company), and, in any case, possesses not less than a 50% interest in the entity; and (2) if, in the reasonable determination of the County, the proposed reconstituted Developer is comparable in all material respects (including experience, character and financial capability) to the Developer. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments satisfactory to the Assistant County Executive Officer of the County of Riverside Economic Development Agency, and be subject to the approval by the County's Board of Supervisors of evidence of the proposed assignee's qualifications to meet the obligations of the Developer under this Agreement. Developer shall promptly notify the County of any and all changes whatsoever in the identity of the parties in control of the Developer or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. County and Developer acknowledge that it may be in the best interests of both parties to involve one or more nonprofit organizations in the development and operation of the proposed Project. Should this agreement result in a Disposition and Development Agreement or other agreement, County and Developer shall mutually agree on the qualifications and selection of said nonprofit(s) prior to final negotiation and execution of the DDA.

V. Condition of Property

The Developer will assume the full and complete responsibility to make all investigations of surface and subsurface conditions as may be necessary or appropriate and to evaluate the suitability of the Property for the proposed Project. County shall not make any representations or warranties concerning the Property, its suitability for the use intended by the Developer, or the surface or subsurface conditions of the Property.

The Property shall be conveyed to the Developer "AS IS", meaning that Developer will be accepting the Property in its present condition, including, but not limited to, the physical condition of the Property and all laws, rules and regulations, whether federal, state or local, having or potentially having any impact on ownership, use, subdivision, improvement or other aspects of the Property. If a DDA is executed and approved by the County Board, the Developer shall be responsible, at its own sole cost and expense, for the demolition of all buildings, structures and improvements on the Property required by Developer in connection with the construction of the Project, and will do all things necessary to prepare the Property for the construction and development of the Project in accordance with the Entitlements therefore.

VI. Right of Entry

The County hereby grants to Developer and its employees, agents and contractors (herein referred to collectively as the "Developer's Designees") the nonexclusive right to enter upon the Property at any time during the Negotiation Period to perform a survey and certain work, consisting of geotechnical investigation, a Phase I Environmental Assessment prepared in compliance with the most recent published American Society for Testing and Materials Phase I Environmental Property Assessment Standard, a Phase II Environmental Investigation and Report, if required, and other due diligence related activities (collectively, the "Work"), and for no other purposes without the prior written approval of the Assistant County Executive Officer of the County of Riverside Economic Development Agency.

Prior to each entry onto the Property, the Developer (i) shall provide twenty-four (24) hours notice to the County, (ii) arrange for access, and, (iii) if requested by the County, will allow oversight of all on-site activities.

Prior to any entry onto the Property for the taking of environmental samples or testing, the Developer shall provide the County with a work plan for on-site activity, including but not limited to a copy of its sampling and testing procedures. Such work plan shall be provided not less than forty-eight (48) hours in advance of any activity contemplated under this Agreement.

The Developer shall provide to the County a copy of all results generated by the sampling and testing performed pursuant to this Agreement. The Developer agrees for itself and on the behalf of the Developer's Designees as follows:

- A. That Developer will not permit any dangerous condition to be created on the Property as a result of the activities of Developer or the Developer's Designees; and,
- B. That all acts and things done by the Developer on the Property will be done in a careful and reasonable manner, in accordance with all federal, state and local laws; and,
- C. That Developer will enter the Property entirely at its own cost, risk and expense; and,
- D. That prior to the Developer's entry upon the Property and during the term of this Agreement, the Developer shall require each and all of Developer's contractors/consultants responsible for the work under this Agreement with whom Developer enters into a written contract for such work to maintain, in full force and effect, statutory workers' compensation insurance coverage and a commercial general liability policy in the amount of at least One Million Dollars (\$1,000,000) combined single limit policy. Prior to entry on the Property, the Developer shall cause Developer's contractors/consultants with whom Developer enters into a written contract for such work to provide certificates evidencing such coverage and naming the County as an additionally insured, as its interests may appear; and,

- E. That Developer shall not have any interest in the Property or be entitled to any reimbursement or repayment for any Work performed upon the Property pursuant to this Agreement; and,
- F. The Developer shall take all necessary precautions to prevent the import and/or release into the environment of any hazardous materials which are imported to, in, on or under the Property during the performance of the Work. If hazardous materials are imported onto the Property as a result of the performance of the Work, the Developer shall be solely responsible for removing such imported hazardous materials in conformance with all governmental requirements. The Developer shall report to the County, as soon as possible after each incident, any unusual or potentially important incidents with respect to the environmental condition of the Property; and,
- G. The Developer shall obtain and maintain all governmental permits and approvals required for the Work conducted under this Agreement and shall comply with all statutes, ordinances, rules, regulations, orders and requirements now in effect or that become effective during the term of this Agreement applicable to its sampling and other activities pursuant to the access granted by this Agreement.
- H. The Developer shall initiate and complete the process for the necessary entitlements required for the Project. This includes performing any necessary studies and or plans required for the entitlement process.

VII. Indemnity

Developer shall indemnify and hold harmless the County of Riverside ("County"), their elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Developer, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of Developer, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. Developer shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the County and/or County of Riverside, its elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by Developer, Developer shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Developer's indemnification to County and County as set forth herein.

Developer's obligation hereunder shall be satisfied when Developer has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe Developer's obligations to indemnify and hold harmless the County herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the Developer from indemnifying the County and/or County of Riverside to the fullest extent allowed by law.

VIII. Default and Remedies

(a) Failure by either party to negotiate in good faith as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting party shall give written notice of a default to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting party of such notice, the non-defaulting Party may exercise the remedies set forth in subsection (b).

(b) Remedies.

(1) County Default. In the event of an uncured default by the County under this Agreement, the Developer may elect the following remedies: (i) terminate this Agreement in which case following such termination, neither party shall have any further right, remedy or obligation under this Agreement; or (ii) seek specific performance of the exclusive negotiating obligations of the County under this Agreement. Developer's remedy of specific performance shall mean only that if the County breaches its duty of negotiating in good faith or negotiating exclusively with Developer, that Developer may seek appropriate order requiring the County to cease or refrain from negotiating with any such third party until the end of the Negotiating Period.

(2) Developer Default. In the event of an uncured default by the Developer under this Agreement, the County shall be entitled to terminate this Agreement. Following such termination, neither Party shall have any right, remedy or obligation under this Agreement; provided, however, that the indemnification obligations pursuant to Section VII shall survive such termination.

IX. Developer Employees and Liabilities

It is understood that persons engaged or employed by Developer as employees, agents, or independent contractors shall be engaged or employed by Developer and not by the County. Developer alone is responsible for their work, direction, compensation and personal conduct. Nothing included in any provision of this Agreement shall impose any liability or duty upon the County to persons, firms, or corporations employed or engaged by Developer in any capacity whatsoever, or make the County liable to any such persons, firms, or corporations, or to any government, for the acts, omissions, liabilities, obligations, and taxes, of whatsoever nature, of Developer or of its employees, agents, or independent contractors.

X. Non-Recourse to Agents

No member, official, employee, agent, or consultant of any Party to this Agreement shall be personally liable to any other Party, or any successor in interest or person claiming by, through or under any Party, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

XI. Actions By the County

The Assistant County Executive Officer of the County of Riverside Economic Development Agency or his or her designee(s) are authorized to take such ministerial actions as may be necessary or appropriate to implement the terms, provisions, and conditions of this Agreement as it may be amended from time to time by County.

XII. Real Estate Commissions

The County shall not be liable for any real estate commissions or brokerage fees which may arise herefrom. The County and Developer each represents that it has engaged no broker, agent or finder in connection with this transaction, and each party agrees to hold the other party harmless from any claim by any broker, agent or finder which it has retained.

XIII. Limits of this Agreement

If the negotiations hereunder culminate in a DDA, such DDA will become effective only after and if it has been considered and approved by the County Board of Supervisors after public hearing, as required by law.

By its execution of this Agreement, the County is not committing itself to or agreeing to undertake: (i) disposition of the Property (or any portion thereof) to the Developer; or (ii) any other acts or activities requiring the subsequent independent exercise of discretion by the County or any County or department thereof. The parties recognize that one or more of the conditions to the Developer's proposal set forth herein may fail to be met as a result of subsequent studies, reviews and proceedings involving the exercise of discretion by the County, the County or any County or department thereof.

This Agreement does not constitute a disposition of property or exercise of control over property by the County and does not require a public hearing. Execution of this Agreement by the County is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the County Board of Supervisors as to the Entitlements and any DDA and all proceedings and decisions in connection therewith. By executing this Agreement, Developer acknowledges that the County have no obligation to approve the Entitlements or a DDA or to take any other discretionary action relating to the Developer's proposal.

The Developer shall not be entitled to reimbursement of legal expenses incurred or any direct costs (or any portion thereof).

XIV. Need for DDA

The parties acknowledge and agree that this Agreement is for the sole purpose of stating the intention of the parties to negotiate and enter into a DDA. The parties have not reached agreement on the matters related to the redevelopment of the Property, and do not intend to be bound until a final written DDA is executed by both parties. In the event the final, written DDA is not executed by both parties within the time provided in Section I, this Agreement shall automatically terminate, and be of no further force or effect, unless extended by action of the County and Developer.

The County's acknowledgment of this Agreement is merely an agreement to enter into a period of negotiations according to the concepts presented herein, reserving final discretion and approval by the County Board of Supervisors.

XV. Insurance

Coincident with the execution of this Agreement by Developer, Developer shall procure and keep in full force and effect during the continuance of this Agreement, the following insurance policies:

- a) **Comprehensive General Liability.** General public liability and property damage insurance issued by a reliable insurance company authorized to do business in the State of California. Such policy of public liability and property damage insurance shall be in an amount of not less than One Million Dollars (\$1,000,000) per person for liability insurance and Five Hundred Thousand Dollars (\$500,000) for property damage. A combined single limit policy with aggregate limits in of One Million Dollars (\$1,000,000) will be considered equivalent to the required minimum limits. The insurance coverage contemplated by the provisions of this section not intended to include that coverage which is contained in an error and omissions policy. County shall be named additionally insured.
- b) **Worker's Compensation Insurance.** Worker's Compensation Insurance to the established California legal limits. Developer shall, deliver a copy of said policies to the Executive Director with an endorsement or attached rider whereby it is provided

that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, County shall be notified by registered mail or certified mail, postage prepaid, return receipt requested, not less than thirty (30) days before expiration or cancellation is effective.

XVI. Authority to Execute

The persons executing this Agreement or exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and represent that they have the authority to execute this Agreement and warrant and represent that they have the authority to bind the respective parties to this Agreement to the performance of its obligations hereunder.

XVII. Notices

Any notice to any of the parties required or permitted under this Agreement shall be delivered by facsimile transmission together with delivery by a nationally recognized "overnight" delivery service, addressed to the other party as follows:

COUNTY: County of Riverside
Attention: Heidi Marshall
3403 10th Street, Suite 500
Riverside, CA 92501
Telephone: (951) 955-3418
Facsimile: (951) 955-3426

DEVELOPER: Palm Communities
Attention: Danavon L. Horn, President
44-139 Monterey Ave, Ste. A
Palm Desert, CA 92260
Telephone: (760) 568-1048
Facsimile: (760) 568-9761

XVIII. Entire Agreement

This Agreement constitutes the entire agreement of the parties regarding the subject matter of this Agreement.

XIX. Severability

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

XX. Jurisdiction and Venue

Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the consolidated Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

XXI. Interpretation and Governing Law

This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

XXII. Counterparts

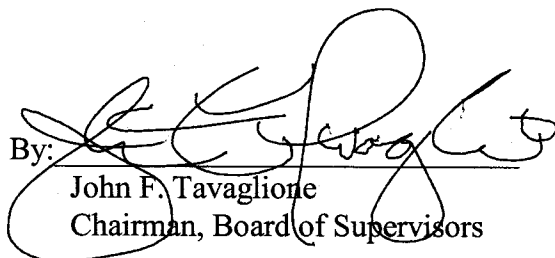
This Agreement may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

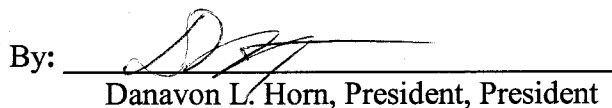
[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, COUNTY and DEVELOPER have executed this Agreement as of the date first above written.

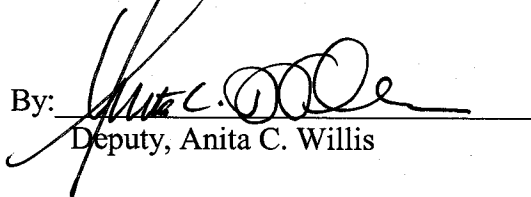
COUNTY

DEVELOPER
Palm Communities
a California corporation

By: 
John F. Tavaglione
Chairman, Board of Supervisors

By: 
Danavon L. Horn, President, President

APPROVED AS TO FORM:
PAMELA J. WALLS
COUNTY Counsel

By: 
Deputy, Anita C. Willis

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

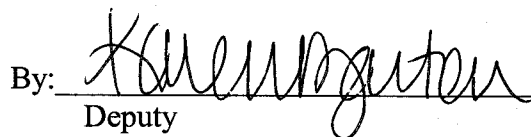
By: 
Deputy

Exhibit A

Property Location
APN: 145-260-011 and 145-260-020
9.69 Acres



Exhibit B Schedule of Performance

	Timeline
Board consideration of ENA	January-2012
Planning Schedule	
Submit to Planning (Major Conditional Use Permit, Zone Change, Parcel Map, and Variance)	February -2012
Environmental Assessment Initiated	Febraury-2012
Review and Resubmittal of any Changes	Ongoing
Environmental Review Completed	May-2012
Community Meeting	June-2012
CEQA Circulated for Public Review/Comment (30 days)	May-2012
Final Resolution/ Publish CEQA	September-2012
Planning Commission/Board approval of entitlements	December-2012
Financing	
Construction and Perm Loan Commitments	March-2013
Tax Credit Application	March-2013
*Financing Dates are subject to change based on funding source	
Construction	
Start construction drawings	July- 2013
50% completion construction drawings	July-2013
Complete construction drawings	August-2013
Submit construction drawings - Plan check (5 months)	August-2013
Secure building permits	November-2013
Construction Start	November-2013
Construction Completion	January-2015
Placed In Service/Lease up/stabilization	January-2015

