

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO**

Space above this line for Recorder's Use

**CONSENT TO RELEASE AND
TERMINATION OF RIGHT OF FIRST REFUSAL**

This Consent to Release and Termination of Right of First Refusal (this “**Consent**”) is executed and delivered by the Successor Agency to the Coachella Redevelopment Agency (the “**Agency**”), with reference to the following:

A. The COACHELLA REDEVELOPMENT AGENCY, a public body corporate and politic (the “**Former Agency**,”) and GEORGE KIRKJAN and TAMARA KIRJKJAN, husband and wife, as joint tenants (collectively, the “**Original Developer**”), entered into that certain Disposition and Development Agreement dated as of July 24, 2001 (the “**Original Agreement**”) (incorrectly referred to in the Restrictive Covenant (as defined below) as dated March 28, 2001), as amended by that certain Agreement and Reformation of Disposition and Development Agreement dated as of January 17, 2005 (the “**Reformation Agreement**,” alongside the Original Agreement the “**DDA**”). Among other things, the DDA contemplated the construction by Developer of industrial buildings on the real property described therein as the Site (the “**Site**”), which site is more particularly described on Exhibit A. A true and complete copy of the DDA is attached as Exhibit B.

B. Pursuant to the DDA, the Former Agency transferred the Site to the Developer via that certain Grant Deed recorded on January 31, 2002, in the Official Records of Riverside County as Document No. 2002-056045 (the “**Original Grant Deed**”). A true and complete copy of the Original Grant Deed is attached as Exhibit C.

C. Section 4 of the Original Grant Deed granted to the Former Agency a right of first refusal to purchase the Site from the Original Developer prior to the Developer’s sale of the Site to any third party (the “**Right of First Refusal**”).

D. DVD FACILITY LLC, a California limited liability company (“**Developer**”) is the current successor-in-interest to the Original Developer as the fee owner of the Site pursuant to those certain Grant Deeds recorded on July 27, 2020 in the Official Records of Riverside County as Document No. 2020-0334597 and on July 28, 2020 in the Official Records of

Riverside County as Document No. 2020-0335834 (the “**Grant Deeds**”). A true and complete copy of the Grant Deeds are attached hereto as Exhibit D and Exhibit E, respectively.

E. The Agency is the successor to the Former Agency.

F. At its meeting on July 22, 2020, the Agency approved the Execution of a Consent to Transfer Certificate (“**Consent to Transfer Certificate**”) regarding the transfer of the Site to Developer. A true and complete copy of the Consent to Transfer Certificate is attached hereto as Exhibit F.

G. The Agency has no intent to exercise its Right of First Refusal at any point in the future. Accordingly, the Agency desires to execute and deliver this Consent for the purpose of consenting to the release and termination of the Right of First Refusal and to evidence its decision to permanently release and terminate its Right of First Refusal with respect to the Site, all as set forth below.

NOW THEREFORE, the Agency hereby certifies, acknowledges and agrees to the following:

1. The Agency hereby releases and terminates its Right of First Refusal with respect to the Site, and agrees that it will not retain any rights under Section 4 of the Original Grant Deed. For the avoidance of doubt, the Right of First Refusal is hereby released and terminated and shall be of no further force or effect.
2. This Consent is given to and for the benefit of Developer, and may be relied upon by Developer, any future prospective purchaser, and each of their respective successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

Executed and delivered this ___ day of _____, 2021.

SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY

By: _____

Steven Hernandez, Chair

By: _____

Andrea J. Carranza, Deputy Secretary

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)
) ss.
COUNTY OF)

On _____, 2021, before me, _____,
a Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the persons whose names are
subscribed to the within instrument and acknowledged to me that they executed the same in their
authorized capacities, and that by their signatures on the instrument the persons, or the entity upon
behalf of which the persons 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

[S E A L]

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT A

Description of Site

THOSE PORTIONS OF PARCELS 21 AND 22 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY PARCEL MAP ON FILE IN PARCEL MAP BOOK 165, PAGES 37 THROUGH 39 INCLUSIVE, OFFICIAL RECORDS OF SAID COUNTY OF RIVERSIDE, LOCATED IN SECTION 9, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 22;
THENCE NORTH 00° 05' 44" WEST ALONG THE WEST LINE OF PARCEL 22, A DISTANCE OF 563.24 FEET;
THENCE NORTH 89° 54' 50" EAST, A DISTANCE OF 329.15 FEET TO THE EAST LINE OF SAID PARCEL 21;
THENCE SOUTH 00° 02' 30" EAST ALONG SAID EAST LINE, A DISTANCE OF 563.24 FEET TO THE SOUTHEAST CORNER OF PARCEL 21;
THENCE SOUTH 89° 54' 51" WEST ALONG THE SOUTH LINES OF PARCELS 21 AND 22, A DISTANCE OF 328.62 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

DDA



1515 SIXTH STREET • COACHELLA, CA 92236

Fax: (760) 398-8117

Administration 398-3502
 Animal Control 398-4978
 Building 398-3002
 City Clerk 398-3502
 City Council 391-5009
 Code Enforcement 398-4978
 Economic Develop. 398-5110
 Engineering 398-5744
 Finance 398-3502
 Fire 398-8885

Grants 398-5110
 Housing 398-5110
 Personnel 398-3502
 Planning 398-3102
 Public Works 398-3744
 Recreation 398-3502
 Riverside Sheriff's Office 853-8980
 Sanitary 391-5008
 Senior Svs. 398-0104
 Utilities 398-2702

674-0137

Final

Date: 1-12-05

To: David Erwin, Attorney

From: LORIE Williams

CC: _____

Telephone: (760) 398-3502 Ext. 233

Re: George & Tamara Kirkjan

Fax: (760) 398-8117

Fax: 340-6698

E-mail: _____

Telephone: ~~340-6698~~

Total number of Pages including Cover Sheet: 10

Urgent Review FYI Please Comment Please Reply

Comments: Jim Erickson called me this morning
As he realized that he had omitted the
date from the reformation document.
Document has been corrected. No other
changes to body of document only addition of
date and names of individuals signing on behalf
of Agency.

I have three originals available for signing
here at the City if I can assist the Kirkjans.

LORIE

If you have any questions regarding this fax, or do not receive all pages, please contact the sender at the number listed above.

ORIGINAL

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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("Agreement"), dated as of July 24, 2001 (the "Effective Date") is entered into by and between the COACHELLA REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), and GEORGE KIRKJAN AND TAMARA KIRKJAN, husband and wife, doing business as Desert Valley Date, Inc. (collectively, "Developer").

RECITALS

This Agreement is entered into with reference to the following facts:

A. The purpose of this Agreement is to effectuate the Redevelopment Plan for Project Area No. 1 of the Agency, in the City of Coachella, California, by facilitating construction of improvements within the Project Area.

B. Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California.

C. Agency owns certain real property in the Project Area consisting of approximately 4.25 acres located near the intersection of Polk Street and Industrial Way in the City of Coachella, California, and being more particularly described on Exhibit A attached hereto and made a part hereof (the "Site"). The Developer wishes to acquire the Site to enable the Developer to construct the Improvements on the Site, as such terms are defined below.

D. Development of the Project will assist in the elimination of blight in the Project Area, provide additional jobs, and substantially improve the economic and physical conditions in the Project Area in accordance with the purposes and goals of the Redevelopment Plan.

E. The Agency has determined that the land uses specified in this Agreement and the provisions relating to development of the Project specified in this Agreement are consistent with the provisions of the Redevelopment Plan and each of its applicable elements.

F. Construction of the Improvements (as hereinafter defined) constituting the Project pursuant to this Agreement is in the best interests of the Agency, and the health, safety and welfare of the residents and taxpayers of the Project Area, and is in accord with the public purposes and provisions of applicable state and local laws.

G. A material inducement to the Agency to enter into this Agreement is the agreement by the Developer to construct the Improvements within a limited period of time, and the Agency would be unwilling to enter into this Agreement in the absence of an enforceable commitment by the Developer to construct the Improvements within a limited period of time.

ORIGINAL

H. The Agency has determined that the land uses specified in this Agreement and the provisions relating to development of the Project specified in this Agreement are consistent with the provisions of the Redevelopment Plan and each of its applicable elements.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS.

Section 1.1. Definitions.

The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

1.1.1. Agency means the Coachella Redevelopment Agency, a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California, with full power and authority to execute this Agreement. The principal office of the Agency is located at 1515 Sixth Street, Coachella, California 92236.

1.1.2. Agreement means this Disposition and Development Agreement.

1.1.3. Certificate of Completion means a certificate described in Section 3.13, to be provided by the Agency to the Developer upon satisfactory completion of the Improvements.

1.1.4. City means the City of Coachella, a municipal corporation, exercising governmental functions and powers, and organized and existing under the laws of the State of California, with full power and authority to execute this Agreement. The principal office of the City is located at 1515 Sixth Street, Coachella, California 92236.

1.1.5. Closing has the meaning defined in Section 2.3.2.

1.1.6. Closing Date means the date upon which the Agency by grant deed shall convey title to the Site to the Developer and such grant deed is recorded in the Official Records of the County of Riverside.

1.1.7. Construction Contract has the meaning defined in Section 3.8.

1.1.8. Default has the meaning defined in Section 6.1.

1.1.9. Developer means George and Tamara Kirkjan, doing business as Desert Valley Date, a California corporation. The principal office of the Developer for purposes of this Agreement is 86-740 Industrial Way, Coachella, California 92236.

1.1.10. Escrow has the meaning defined in Section 2.2.1.

1.1.11. Escrow Holder means Foresite Escrow (Peggy Baumgardner, Escrow Officer). The principal office of the Escrow Holder for purposes of this Agreement is 41-995 Boardwalk, Palm Desert, California 92211. Telephone: (760) 773-5333.

1.1.12. General Contractor has the meaning defined in Section 3.8.

1.1.13. Hazardous Substances shall include, without limitation, any flammable explosives, radioactive materials, asbestos, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, substances described in Civil Code Section 2929.5(e)(2), as it now exists or as subsequently amended, pollutants, contaminants, hazardous wastes, toxic substances or related materials.

1.1.14. Improvements means the improvements described in Section 3.1.

1.1.15. Party means any party to this Agreement. The "Parties" shall be all parties to this Agreement.

1.1.16. Plans and Specifications means the plans and specifications approved by the City for construction of the Improvements.

1.1.17. Project means the construction of the Improvements on the Site in accordance with the Plans and Specifications.

1.1.18. Project Area means Project Area No. 1 of the Agency.

1.1.19. Purchase Price has the meaning defined in Section 2.1.

1.1.20. Redevelopment Plan means the Redevelopment Plan for the Coachella Redevelopment Agency Project Area No. 1 approved by the City Council of the City of Coachella by Ordinance No. 470 on May 4, 1982. This Agreement shall be subject to the provisions of the Redevelopment Plan which are incorporated herein by this reference and made a part hereof as though fully set forth herein.

1.1.21. Restrictive Covenant and Option means the Restrictive Covenant and Option to Purchase described in Section 5.6, which is in the form attached hereto as Exhibit B.

1.1.22. Schedule of Performance means the schedule attached hereto as Exhibit C to this Agreement, which is incorporated herein by this reference.

1.1.23. Site means that certain real property described in Exhibit A attached hereto and incorporated herein by this reference.

1.1.24. Transaction Costs means all costs incurred by either party in entering into this transaction and closing Escrow, including but not limited to attorney's fees, staff time, appraisal costs, and costs of financial advisors and other consultants.

ARTICLE 2. PURCHASE AND SALE OF THE SITE

Section 2.1. Purchase and Sale.

The Agency agrees to sell the Site to the Developer, and the Developer agrees to purchase the Site from the Agency, for the sum of \$0.50 per square foot, being \$92,565.00 (the "Purchase Price"). The Purchase Price shall be paid in cash on the Closing Date.

Section 2.2. Payment of Purchase Price.

The Purchase Price shall be payable by Developer as follows:

2.2.1. Deposit.

Upon the opening of Escrow, Developer shall deposit with Escrow Holder the sum of Five Thousand Dollars (\$5,000.00) by a certified or bank cashier's check made payable to Escrow Holder or a confirmed wire transfer of funds (the "Deposit"). The Deposit shall be invested by Escrow Holder in an interest bearing account acceptable to Developer with all interest accruing thereon to be paid to Developer by Escrow Holder upon demand or, at Developer's election, credited to the Purchase Price upon the Close of Escrow. The Deposit shall be applicable in full towards the Purchase Price.

2.2.2. Closing Funds.

Prior to the Close of Escrow, Developer shall deposit or cause to be deposited with Escrow Holder, by a certified or bank cashier's check made payable to Escrow Holder or a confirmed wire transfer of funds, the balance of the Purchase Price, plus payment of the Developer's share of the costs of the Escrow.

Section 2.3. Escrow.

2.3.1. Opening of Escrow.

Within 5 days after the Parties' full execution hereof, the Developer and the Agency shall open an escrow ("the Escrow") with the Escrow Holder for the transfer of the Site to the Developer. The Parties shall deposit with the Escrow Holder a fully executed duplicate original of this Agreement, which shall serve as the escrow instructions for the Escrow. The Escrow Holder is authorized to act under this Agreement, and to carry out its duties as the Escrow Holder hereunder.

2.3.2. Close of Escrow.

"Close of Escrow" or "Closing" means the date Escrow Holder causes the grant deed in favor of the Developer to be recorded in the Official Records of the County of Riverside and delivers the Purchase Price and payment for the Transaction Costs to the Agency. Escrow shall close on or before the date that is 180 days after the Effective Date. Possession of the Site shall be delivered to the Developer on the Close of Escrow.

2.3.3. Other Documents.

The Agency and the Developer shall execute such reasonable and customary documents, including deeds and necessary escrow instructions, as required to convey the Site to the Developer pursuant to the terms of this Agreement. Should the Agency fail to execute such documents by the times required by this Agreement, then the Developer's deadlines for closing escrow on the Site shall be extended accordingly on a day-for-day basis.

Section 2.4. Condition of Title: Title Insurance.

2.4.1. Within 10 days after the Effective Date, the Agency shall deliver to the Developer, for the Developer's review and approval, a current preliminary title report and copies of any instruments noted as exceptions thereon. The Developer shall approve or disapprove the preliminary title report within 10 days after receipt of the preliminary title report. The Developer's approval thereof shall not unreasonably be withheld.

2.4.2. At the Closing of any Escrow, the Developer shall receive title to the Site by grant deed substantially in the form attached hereto as Exhibit D and incorporated herein by this reference.

2.4.3. At Closing, the Developer shall receive a CLTA Owner's Standard Coverage Policy of Title Insurance (the "Title Policy"), issued by Fidelity National Title Company ("Title Company"), in the amount of the Purchase Price, insuring that title to the Site is free and clear of all liens, easements, covenants, conditions, restrictions, and other encumbrances of record except (a) current taxes and assessments of record, but not any overdue or delinquent taxes on assessments, (b) this Agreement, including the Restrictive Covenant and Option described in Section 5.6, and (c) such other encumbrances as the Developer approves in writing.

Section 2.5. Escrow and Title Charges.

The Developer and Agency shall each pay one-half (1/2) of any and all usual and customary costs, expenses and charges related to the escrow and transfer of title to the Site, including, without limitation, recording fees, any documentary transfer taxes, and premiums on the standard CLTA title policy. Developer shall be solely responsible for any additional title insurance endorsement premiums and charges. Each party shall be responsible for its own Transaction Costs.

Section 2.6. Condition of the Site.

The Site shall be conveyed from the Agency to the Developer in "AS IS" condition, and the Developer hereby releases the Agency from any and all liability or responsibility for the physical condition of the Site or any portion thereof, including without limitation any liability or costs that might be incurred by the Developer by reason of the presence of hazardous substances on the Site. If the Site is not in a condition suitable for the intended use or uses, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Site in a condition suitable for development of the Project thereon. Without limiting the generality of the foregoing, THE AGENCY MAKES NO REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OF THE SITE BEING TRANSFERRED PURSUANT TO THIS AGREEMENT. The Developer acknowledges that the Agency has made all disclosures and provided all notices to the Developer in accordance with Health and Safety Code Section 25359.7.

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

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

BY INITIALING BELOW, BUYER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

Developer's Initials

The waivers and releases by Developer herein contained shall survive the Close of Escrow and the recordation of the Grant Deed and shall not be deemed merged into the Grant Deed upon its recordation.

Section 2.7. Escrow Holder.

2.7.1. Escrow Holder is authorized to:

(a) Pay and charge the Developer for any fees, charges and costs payable under this Article. Before such payments are made, the Escrow Holder shall notify the Agency and the Developer of the fees, charges, and costs necessary to close the Escrow;

(b) Disburse funds and deliver the deeds and other documents to the parties entitled thereto when the conditions of the Escrow have been fulfilled by the Agency and the Developer; and

(c) Record any instruments delivered through the Escrow, if necessary or proper, to vest title in the Developer in accordance with the terms and provisions of this Agreement, and to record the Restrictive Covenant and Option.

2.7.2. Any amendment of these escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment, Escrow Holder shall agree to carry out its duties as escrow holder under such amendment.

2.7.3. All communications from the Escrow Holder to the Agency or the Developer shall be directed to the addresses and in the manner established in Section 7.3 of this Agreement for notices, demands and communications between the Agency and the Developer.

2.7.4. The liability of the Escrow Holder under this Agreement is limited to performance of the obligations imposed upon it under this Article 2, and any amendments hereto agreed upon by Escrow Holder.

Section 2.8. Additional Instructions.

The Parties shall execute appropriate escrow instructions, prepared by the Escrow Holder, which are not inconsistent herewith. If there is any inconsistency between the terms hereof and the terms of the escrow instructions, the terms hereof shall control unless an intent to amend the terms hereof is expressly stated in such instructions.

ARTICLE 3. DEVELOPMENT OF THE SITE

Section 3.1. Scope of Development.

3.1.1. The "Improvements" to be completed by Developer shall be a building consisting of at least 10,000 square feet of building area (the "Building") and shall include such other landscaping and public improvements as are reasonably required by the Agency. The Building shall be completed, ready for occupancy, and open for business no later than three (3) years from the Closing (the "Completion Date"). Two (2) separate, one (1) year extensions of the Completion Date shall be available to Developer upon written application to the Executive Director of the Agency. Developer shall in the written request state the reasons and circumstances which have caused to the need to delay construction. The Agency or its Executive Director may ask for additional justification and shall make a decision within 30 days of the receipt of the written request or receipt of requested additional justification from Developer. The Agency shall not unreasonably withhold approval of such extensions. Developer shall not unreasonably postpone construction of the Improvements contemplated herein. The Improvements shall be

designed for industrial use and shall comply with all zoning and general plan requirements applicable to the Site.

3.1.2. The Developer shall construct the Improvements, and all associated public infrastructure improvements required by the City pursuant to its conditions of approval, if any, and all parking areas and landscaping, in accordance with and within the limitations established therefor in this Agreement and as required by the City. Developer covenants to improve the southerly portion of the Site with paved parking and storage areas as approved by the Planning Commission of the City and to install such off site perimeter improvements along Industrial Way as are required by the Agency in the Agency's sole and absolute discretion. The Developer shall also comply with the requirements of the City's Municipal Code, any and all applicable federal, state and local laws, rules and regulations, and any applicable mitigation measures adopted pursuant to the California Environmental Quality Act.

Section 3.2. Agency's Right to Review Plans and Specifications.

In connection with design of the Improvements on the Site, the Developer shall submit basic concept drawings, preliminary plans, landscaping plans, and final plans and specifications to the Agency for the Agency's review and approval. The Developer shall construct the Improvements on the Site in compliance with the plans and specifications approved by the Agency.

Section 3.3. Approval of Construction Plans.

The Agency shall approve or disapprove such plans, drawings, and related documents referred to in Section 3.2 in a reasonably timely fashion. Any disapproval shall state in writing the reasons for disapproval. The Developer, upon receipt of a disapproval, shall revise such portion of the plans, drawings or related documents in a manner that satisfies the reasons for disapproval and shall resubmit such revised portions to the Agency as soon as possible after receipt of the notice of disapproval. The Agency shall approve or disapprove such revised portions in the same manner as provided in this Agreement for approval or disapproval of plans, drawings, and related documents initially submitted to the Agency, which approval or disapproval shall be provided within a reasonable time taking into consideration the scope and detail of the plans, drawings and documents submitted. Any items submitted to and approved by the Agency shall not be subject to subsequent disapproval. All approvals or disapprovals to be made by the Agency pursuant to this Article 3 shall be made by the Executive Director of the Agency and the Executive Director's designated staff members.

Section 3.4. Changes in Construction Drawings.

If the Developer desires to make any changes in the construction drawings and related documents after their approval by the Agency, the Developer shall submit the proposed changes to the Agency for its reasonable approval. The Agency shall approve or disapprove such revised portions in the same manner as provided in this Agreement for approval or disapproval of plans, drawings, and related documents initially submitted to the Agency, which approval or

disapproval shall be provided within a reasonable time taking into consideration the scope and detail of the plans, drawings and documents submitted. The Developer shall revise any disapproved portions and resubmit them to the Agency.

Section 3.5. Cost of Construction.

The cost of constructing all Improvements, and all public infrastructure improvements, if any, shall be borne by the Developer.

Section 3.6. Construction Schedule.

The Developer shall begin and complete all construction within the times specified in the Schedule of Performance.

Section 3.7. Progress of Construction.

During construction of the Improvements on the Site, the Developer shall submit to the Agency within ten days following each request of the Agency therefor (which requests shall be submitted no more frequently than monthly), a written report of the progress to date of the construction. The reports shall be in the same form and in the same detail as are normally prepared for internal reports of the Developer or for reports from the Developer's general contractor to the Developer. The report shall be in such form and detail as to reasonably inform the Agency of the status of construction to date, and shall include a reasonable number of photographs (if so requested by the Agency) taken since the last report by the Developer.

Section 3.8. Construction Contract and Bond.

Prior to the date set forth in the Schedule of Performance, the Developer shall provide to the Agency a copy of the fully executed construction contract (the "Construction Contract"), which Construction Contract shall obligate a reputable and financially responsible general contractor (the "General Contractor"), licensed in California and experienced in completing the type of improvements contemplated by this Agreement, to commence and complete the development of the Project in accordance with this Agreement, and all applicable laws, with the funds available for the Project. Such Construction Contract shall set forth a cost of construction, including fees to the General Contractor, consistent with the funding available to and obtained by the Developer to pay the cost of constructing the Improvements. The Agency shall also have the right to confirm that the Construction Contract will conform to the budget and cost breakdown approved by the Developer's construction lender. If the Developer's construction lender requires the Developer to obtain a Performance Bond and/or a Labor and Material Payment Bond, then Developer agrees to cause the Agency to be named as a co-obligee thereon.

Section 3.9. Construction Loan.

On or before the date set forth therefor in the Schedule of Performance, the Developer shall submit to the Agency, for approval by the Agency's Executive Director, evidence

of binding commitments for construction financing for each of the Improvements constituting the Project.

Section 3.10. Rights of Access.

In addition to those rights of access to and across the Site to which the Agency and the City may be entitled by law, members of the staffs of the Agency and the City shall have a reasonable right of access to the Site, without charge or fee, at any reasonable time, to inspect the work being performed at the Site.

Section 3.11. Local, State and Federal Laws.

The Developer shall carry out the construction of the Improvements in conformity with all applicable laws, including all applicable federal, state and local occupation, safety and health laws, rules, regulations and standards.

Section 3.12. Nondiscrimination During Construction.

The Developer, for itself and its successors and assigns, agrees that it shall not discriminate against any employee or applicant for employment because of age, sex, marital status, race, handicap, color, religion, creed, ancestry, or national origin in the construction of the improvements constituting the Improvements.

Section 3.13. Certificate of Completion.

3.13.1. After completion of all construction and development by the Developer of each phase of all of the improvements constituting the Improvements, and the infrastructure public improvements, the Agency shall, following written request by the Developer, promptly furnish the Developer with a Certificate of Completion for the Improvements. The Certificate of Completion shall be in the form attached hereto as Exhibit E. The Agency shall not unreasonably withhold the Certificate of Completion. The Certificate of Completion shall be, and shall so state that it is, a conclusive determination of satisfactory completion of all of the construction required by this Agreement. The Agency shall issue a Certificate of Completion for each phase of construction.

3.13.2. If the Agency refuses or fails within 30 days after receipt of a request from the Developer to issue the Certificate of Completion after written request therefor from the Developer, the Agency shall, within 30 days thereafter, provide the Developer with a written statement of the reasons the Agency refused or failed to furnish a Certificate of Completion. The statement shall also contain the Agency's opinion of the action the Developer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or material for landscaping, and the costs of completion does not exceed \$50,000.00, the Agency shall issue its Certificate of Completion upon the Developer's depositing with the Agency cash or an irrevocable standby letter of credit acceptable

to the Agency in an amount representing the fair value of the work not yet completed. The determination of fair value shall be made by the Agency.

3.13.3. Such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, trust deed or other security instrument. Such Certificate of Completion shall not be construed as a notice of completion as described in California Civil Code Section 3093.

ARTICLE 4. LIMITATIONS ON TRANSFERS AND SECURITY INTERESTS

Section 4.1. Limitation As To Transfer of the Site and Assignment of Agreement.

The Developer's rights hereunder are not transferrable by the Developer without the Agency's prior written consent. Without the Agency's prior written consent first had and obtained, the Developer shall not sell, assign, transfer, or lease the Site until the Developer has received a Certificate of Completion for all improvements to be constructed thereon (including the improvements to be constructed pursuant to any subsequent phases of the improvements). The Developer acknowledges that the identity of the Developer is of particular concern to the Agency, and it is because of the Developer's identity that the Agency has entered into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement in violation of the terms hereof. No transfer or assignment hereunder shall be deemed to release Desert Valley Date from the obligations of the Developer hereunder. This prohibition shall not be deemed to prevent the (i) granting of easements or permits to facilitate the development of the Site, or (ii) any mortgage or deed of trust permitted by this Agreement. Upon receipt of a Certificate of Completion for the Improvements, the Developer may transfer the Site to any qualified transferee so long as the transferee agrees to all of the covenants and conditions set forth in Article 5 of this Agreement. Such transfer after completion of the Improvements shall be with the prior written consent of Agency, which shall not be unreasonably withheld.

Section 4.2. Security Financing; Right of Holders.

4.2.1. No Encumbrances Except Mortgages, Deeds of Trust, Conveyances or Other Conveyance for Financing For Development.

4.2.1.1. Notwithstanding Section 4.1 or any other provision herein to the contrary, mortgages, deeds of trust, sales and leaseback, or any other form of encumbrance or conveyance required for any reasonable method of construction and permanent financing are permitted, but only with the prior written approval of the Agency (which approval shall not unreasonably be withheld), and only for the purpose of securing loans of funds to be used for financing the direct and indirect costs of the Project (including reasonable and customary developer fees, loan fees and costs, and other normal and customary project costs).

4.2.1.2. The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing commonly used in real estate acquisition,

construction and land development. Any reference herein to the "holder" of a mortgage or deed of trust shall be deemed also to refer to a lessor under a sale and leaseback.

4.2.2. Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders: Right to Cure.

Whenever the Agency shall deliver a notice or demand to the Developer with respect to any breach or default by the Developer in completion of development of the Project, the Agency shall at the same time deliver a copy of such notice or demand to each holder of record of any first mortgage, deed of trust or other security interest authorized by this Agreement who has previously made a written request to the Agency for special notice hereunder. No notice of default to the Developer shall be effective against any such holder unless given to such holder as aforesaid. Such holder shall (insofar as the rights of the Agency are concerned) have the right, at its option, within 30 days after receipt of the notice, to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien of its security interest. If such default shall be a default which can only be remedied or cured by such holder upon obtaining possession, such holder shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within a reasonable period of time as necessary to remedy or cure such default of the Developer.

4.2.3. Noninterference with Holders.

The provisions of this Agreement do not limit the right of holders to foreclose or otherwise enforce any mortgage, deed of trust, or other security instrument encumbering the Site and the improvements thereon, or the right of holders to pursue any remedies for the enforcement of any pledge or lien encumbering the Site; provided, however, that in the event of a foreclosure sale under any such mortgage, deed of trust or other lien or encumbrance, or sale pursuant to any power of sale contained in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns, and the Site, shall be, and shall continue to be, subject to all of the conditions, restrictions and covenants of this Agreement and all documents and instruments recorded pursuant hereto.

ARTICLE 5. USE OF THE SITE

Section 5.1. Uses.

The Developer covenants and agrees for itself, and its successors and its assigns, that the Developer, such successors, and such assignees shall use the Site, and every part thereof, only for the construction of the Improvements thereon and operation of the businesses for which the Improvements are designed. The covenant to use the Site for this use shall run with the land for the benefit of the Agency and the Project Area for the purpose of protecting the interest of the community, and shall be binding on the Developer and all successors in interest of the Developer. These covenants shall run in favor of the Agency without regard to whether the Agency has been, remains or is an owner or holder of any land or interest in the Project Area. The Agency shall have the right, if such covenants are breached, to exercise all rights and remedies and to maintain

any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of such covenants may be entitled, including, without limitation, specific performance, damages, and injunctive relief. The Agency shall have the right to assign all of its rights and benefits hereunder to the City. The Developer agrees on behalf of himself, his successors and assigns, that they shall under all circumstances comply with all the terms of this Agreement and the covenants running with the land shall be binding for all purposes against the Site.

Section 5.2. Employment Preference to Local Residents.

The Developer further covenants that with respect to the construction, operation, and maintenance of the Project and operation of businesses from the Site, the Developer shall give a first priority preference in hiring to residents in redevelopment project areas in the City of Coachella, and a second priority preference in hiring to residents of the City of Coachella generally, in situations in which prospective employees are otherwise equally qualified. The Developer shall also provide in all purchase and sale agreements, grant deeds, leases, and contracts, that with respect to the construction and maintenance of all improvements on the Site and the operation of all businesses therefrom, all transferees, lessees, and contractors, and their successors and assigns, shall give a first priority preference in hiring to residents in redevelopment project areas in the City of Coachella, and a second priority preference in hiring to residents of the City of Coachella generally, in situations in which prospective employees are otherwise equally qualified.

Section 5.3. Maintenance of the Site.

After completion of the Project, the Developer, and the Developer's transferees, successors and assigns, shall maintain the Site and the Project (including landscaping) in good and clean condition and repair.

Section 5.4. Obligation to Refrain from Discrimination.

The Developer covenants and agrees for itself, its successors and assigns, and for every successor in interest to the Site or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, marital status, age, handicap, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, and the Developer (itself or any person claiming under or through the Developer) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site or any portion thereof.

Section 5.5. Form of Nondiscrimination and Nonsegregation Clauses.

The Developer shall refrain from restricting the rental, sale or lease of the Site or any portion thereof, on the basis of sex, age, handicap, marital status, race, color, religion, creed,

ancestry or national origin of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: "The grantee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, age, handicaps color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. In leases: "The lessee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through him, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, age, handicap, color, religion, creed, national origin or ancestry, in the leasing, subleasing, transferring, use, or enjoyment of the land herein leased, nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

3. In contracts relating to the sale or transfer of the Site or any interest therein: "There shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, age, handicap, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, subtenants, sublessees or vendees of the land."

Section 5.6. Restrictive Covenant and Option.

In order to insure the Developer's compliance with the use restrictions hereof, and in order to protect the Agency's interest in seeing that the Site will be improved with the Improvements, the Developer shall execute and record at the Close of Escrow the Restrictive Covenant and Option set forth in Exhibit B hereto. Such Restrictive Covenant and Option provides, among other things, that the Developer must use the Site for the uses described herein, and that if the Developer fails to comply with the terms hereof, the Agency shall have an option to repurchase the Agency Property (or a part thereof).

Section 5.7. Effect and Duration of Covenants.

Following development of the Project in accordance with this Agreement, each of the rights, duties and obligations of the Developer and the Agency shall be deemed to have been satisfied under this Agreement, and the Developer and its successors in interest to the Site shall have no further obligations with respect to the matters provided for in this Agreement with the exception of the following, each of which shall be set forth in particularity in any document of transfer or conveyance by the Developer:

- (1) The Redevelopment Plan, which shall remain in effect until expiration of the Redevelopment Plan, as the same may be extended from time to time;
- (2) The use and maintenance requirements set forth in Section 5.1 and 5.3 which shall remain in effect for thirty (30) years;
- (3) The nondiscrimination and nonsegregation requirements set forth in Sections 5.4 and 5.5, which shall remain in effect in perpetuity;
- (4) Easements to the Agency, City or other public agencies for utilities existing as of the execution of this Agreement, which shall remain in effect according to their terms.

ARTICLE 6. EVENTS OF DEFAULT, REMEDIES AND TERMINATION

Section 6.1. Defaults--Definition.

Occurrence of any or all of the following shall constitute a default ("Default") under this Agreement:

6.1.1. The Developer's failure to commence construction of the Improvements or to complete construction of the Improvements in accordance with the time parameters set forth in the Schedule of Performance, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled, or due to causes beyond the Developer's control as provided in Section 7.11 hereof; or

6.1.2. The Developer's sale, lease, or other transfer, or the occurrence of any involuntary transfer, of the Site or any part thereof or interest therein in violation of this Agreement; or

6.1.3. The suspension of work on the Site, or any other Improvements required to be performed by the Developer, in a material fashion, for a period a period of 15 consecutive days, unless the Developer shall not have obtained an extension or postponement to which the Developer may be entitled, or due to causes beyond the Developer's control as provided in Section 7.11 hereof; or

6.1.4. The Developer's neglect, failure or refusal to keep in force and effect any permit or approval with respect to development of the Project or any policy of insurance required hereunder, and the Developer's failure to cure such breach within 10 days after written notice from the Agency of the Developer's breach;

6.1.5. Filing of a petition in bankruptcy by or against the Developer or appointment of a receiver or trustee of any property of the Developer, or an assignment by the Developer for the benefit of creditors, or adjudication that the Developer is insolvent by a court, and the failure of the Developer to cause such petition, appointment, or assignment to be removed or discharged within 60 days;

6.1.6. The Developer's failure to perform any requirement or obligation of Developer set forth herein or in the Schedule of Performance not heretofore described on or prior to the date for such performance set forth herein or in the Schedule of Performance, and the failure of the Developer to cure or perform such obligation or requirement within 15 days after written notice of such delinquency.

Section 6.2. Remedies in the Event of Default.

6.2.1. Remedies. In the event of a Default under this Agreement, the non-defaulting Party shall have the right to terminate this Agreement by delivering written notice thereof to the defaulting Party and to Escrow Holder, and the non-defaulting Party may seek against the defaulting Party any available remedies at law or equity, including but not limited to the right to receive compensatory damages or to pursue an action for specific performance. In addition, the Agency shall have the right to exercise the option to repurchase the Site (or a part thereof) as set forth in the Restrictive Covenant and Option.

6.2.2. Liberal Construction. The rights established in this Agreement are to be interpreted in light of the fact that the Agency will convey the Site to the Developer for development and operation of the Project thereon and not for speculation in undeveloped land or for construction of different improvements. The Developer acknowledges that it is of the essence of this Agreement that the Developer is obligated to complete all Improvements comprising the Project.

Section 6.3. No Personal Liability.

Except as specifically provided herein to the contrary, no representative of the Agency shall personally be liable to the Developer, or any successor in interest of the Developer, in the event of any Default or breach by the Agency, or for any amount which may become due to the Developer, or any successor in interest, on any obligation under the terms of this Agreement.

Section 6.4. Legal Actions.

6.4.1. Institution of Legal Actions.

Any legal actions brought pursuant to this Agreement must be instituted in either the Superior Court of the County of Riverside, State of California, or in an appropriate municipal court in that County.

6.4.2. Applicable Law.

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

6.4.3. Acceptance of Service of Process.

If any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the executive director or secretary of the Agency, or in such other manner as may be provided by law. If any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made by personal service upon the Developer, or in such other manner as may be provided by law, whether made within or without the State of California.

Section 6.5. Rights and Remedies are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 6.6. Inaction Not a Waiver of Default.

Except as expressly provided in this Agreement to the contrary, any failures or delays by either Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

ARTICLE 7. GENERAL PROVISIONS

Section 7.1. Insurance.

7.1.1. Throughout development of the Improvements on the Site, the Developer shall take out and maintain, at no cost or expense to the Agency, with a reputable and financially responsible insurance company reasonably acceptable to the Agency, broad form commercial general public liability insurance, insuring the Developer and the Agency against claims and liability for bodily injury, death, or property damage arising from the use, occupancy, condition, or operation of the Site and the Improvements thereon, which insurance shall provide combined single limit protection of at least \$2,000,000, and include contractual liability endorsement. Such

insurance shall name the City and the Agency and their members, officers, employees, and servants, as additional insureds.

7.1.2. Before commencement of any demolition or construction work the Developer shall also procure or cause to be procured, and shall maintain in force until completion of the work (i) "all risk" builder's risk insurance, including coverage for vandalism and malicious mischief, in a form and amount and with a company reasonably acceptable to the Agency, and (ii) workers' compensation insurance covering all persons employed in connection with work. The builder's risk insurance shall cover improvements in place and all material and equipment at the job site furnished under contract, but shall exclude contractors', subcontractors', and construction managers' tools and equipment and property owned by contractors' and subcontractors' employees.

7.1.3. The Developer shall also furnish or cause to be furnished to the Agency evidence satisfactory to the Agency that any contractor with whom it has contracted for the performance of work on Site or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law.

7.1.4. With respect to each policy of insurance required above, the Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on the insurance carrier's form setting forth the general provisions of the insurance coverage. The required certificate shall be furnished by the Developer prior to commencement of development of the Improvements on the Site.

7.1.5. All such policies required by this Section shall be nonassessable and shall contain language to the effect that (i) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to the Agency, and (ii) the Agency shall not be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to the Agency.

Section 7.2. Indemnity.

The Developer shall indemnify, defend, protect, and hold harmless the Agency and the City and any and all agents, employees and representatives of the Agency and the City, from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and demands of any nature whatsoever, related directly or indirectly to, or arising out of or in connection with:

- (i) the use, ownership, management, occupancy, or possession of the Site,
- (ii) any breach or Default of the Developer hereunder,

(iii) any of the Developer's activities on the Site (or the activities of the Developer's agents, employees, lessees, representatives, licensees, guests, invitees, contractors, subcontractors, or independent contractors on the Site), including without limitation the construction of any Improvements on the Site,

(iv) the presence or clean-up of Hazardous Substances on, in or under the Site, or,

(v) any other fact, circumstance or event related to the Developer's performance hereunder, or which may otherwise arise from the Developer's ownership, use, possession, improvement, operation or disposition of the Site,

regardless of whether such losses and liabilities shall accrue or are discovered before or after termination or expiration of this Agreement, or before or after the conveyance of the Site, except to the extent such losses or liabilities are caused by or contributed by the negligent or intentionally wrongful act of the Agency.

Section 7.3. Notices.

All notices and demands shall be given in writing by certified mail, postage prepaid, and return receipt requested, or by personal delivery. Notices shall be considered given upon the earlier of (a) personal delivery or (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. A copy of all notices shall be sent to Escrow Holder. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

Agency: Byron L. Woosley,
Executive Director
Coachella Redevelopment Agency
1515 Sixth Street
Coachella, California 92236
Telephone: (760) 398-3502
Fax: (760) 398-8117

with a copy to: Green, DeBortnowski and Quintanilla A
35-325 Date Palm Drive, Suite 202
Cathedral City, California 92234
Attention: Steven Quintanilla
Telephone: (760) 770-0873
Fax: (760) 770-1724

Developer: George and Tamara Kirkjan
c/o Desert Valley Date
86-740 Industrial Way,
Coachella, California 92236.
Telephone: (760) 398-0999
Fax: (760) 398-1514

Section 7.4. Construction.

The Parties agree that each Party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto.

Section 7.5. Limitation on Applicability of this Agreement to the City and the Agency.

The Developer acknowledges and agrees that the City shall be bound hereby only to the extent any obligations specifically name and refer to the City, and the City shall not be liable for any breach or default of the Agency in the performance of the Agency's obligations hereunder. Moreover, the Developer acknowledges and agrees that the Agency shall not be liable for any breach or default of the City in the performance of any obligations specifically naming and attributable to the City hereunder. The obligations of the City and the Agency are several.

Section 7.6. Developer's Warranties.

The Developer, jointly and severally, warrants and represents to the City and the Agency as follows:

7.6.1. The Developer has full power and authority to execute and enter into this Agreement and to consummate the transactions contemplated hereunder. The rights and obligations of Developer herein are joint and several. This Agreement constitutes the valid and binding agreement of the Developer, enforceable in accordance with its terms. Neither the execution nor delivery of this Agreement, nor the Developer's recordation or the Restrictive Covenant and Option, nor the consummation of the transactions covered hereby, nor compliance with the terms and provisions hereof, shall conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the Developer is a party.

7.6.2. The Developer has inspected the Site and is familiar with all aspects of the Site and its condition, and accepts such condition.

7.6.3. The Developer has not paid or given, and will not pay or give, to any third person, any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers and attorneys.

7.6.4. No commission or fee whatsoever is payable to any person, firm, corporation, partnership or other entity in connection with the transactions contemplated by this Agreement due to the acts of the Developer. The Developer has used no broker, agent, finder or other person in connection with the transaction contemplated hereby to whom a brokerage or other commission or fee may be payable.

Section 7.7. Interpretation.

In this Agreement the neuter gender includes the feminine and masculine, and singular number includes the plural, and the words "person" and "party" include corporation, partnership, firm, trust, or association where ever the context so requires.

Section 7.8. Non Speculation/Right of First Refusal. The Developer covenants to construct the Improvements and that the Developer's intent is to develop the Site and not for speculation in the value of real property. Accordingly, the Developer hereby grants the Agency a first right of refusal to purchase the Site from the Developer prior to the Developer's sale of the Site to any third party (the "First Right of Refusal"). The First Right of Refusal shall be in a form reasonably required by the Agency and shall be recorded as part of the Grant Deed on the Site in favor of the Agency for a term of seventy-five (75) years. Provided, however, that the First Right of Refusal shall not arise should Developer determine, based upon estate planning considerations to transfer title to the Site to a revocable living trust or should Developer transfer title to the Site to Desert Valley Date, a California corporation.

Section 7.9. Time of the Essence.

Time is of the essence of this Agreement.

Section 7.10. Nonliability of Agency Officials and Employees.

No member, official or employee of the Agency or the City shall be personally liable to the Developer or any successor in interest, in the event of any default or breach by the Agency or the City or for any amount which may become due to the Developer or to any successor, or on any obligations under the terms of this Agreement.

Section 7.11. Attorneys' Fees.

If any Party brings an action to enforce the terms hereof or declare its rights hereunder, the prevailing Party in any such action shall be entitled to its reasonable attorneys' fees to be paid by the losing Party as fixed by the court. If either the City, the Agency, or the Developer, without fault, is made a party to any litigation instituted by or against the other Party, such other Party shall defend it against and save it harmless from all costs and expenses including reasonable attorney's fees incurred in connection with such litigation.

Section 7.12. Enforced Delay: Extension of Times of Performance.

In addition to specific provisions of this Agreement, delay in performance by either party hereunder shall not be a Default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause, if the party claiming such extension gives notice of the delay within 10 days after the commencement of the cause. If, however, the party claiming such extension fails to give such notice within 10 days after the commencement of the cause, the period shall commence to run only 10 days prior to the giving of such notice. Times of performance under this Agreement may be extended in writing by the Agency and the Developer.

Section 7.13. Approvals by Agency and the Developer.

Unless otherwise specifically provided herein, wherever this Agreement requires the Agency or the Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not unreasonably be withheld.

Section 7.14. Inspection of Books and Records.

The Agency shall have the right at all reasonable times to inspect the books and records of the Developer pertaining to the Site as pertinent to the purposes of this Agreement.

Section 7.15. Developer's Private Undertaking.

The development covered by this Agreement is a private undertaking, and the Developer shall have full power over and exclusive control of the Site while the Developer holds title to the Site; subject only to the limitations and obligations of the Developer under this Agreement and the Redevelopment Plan.

Section 7.16. Entire Agreement, Waivers and Amendments.

The Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement, together with all attachments and exhibits hereto, constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter hereof. No subsequent agreement, representation or promise made by either Party hereto, or by or to any employee, officer, agent or representative of either Party, shall be of any effect unless it is in writing and executed by the Party to be bound thereby. No person is authorized to make, and by execution hereof the Developer and the Agency acknowledge that no person has made, any representation, warranty, guaranty or promise except as set forth herein; and no agreement, statement,

representation or promise made by any such person which is not contained herein shall be valid or binding on the Developer or the Agency.

Section 7.17. Severability.

Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

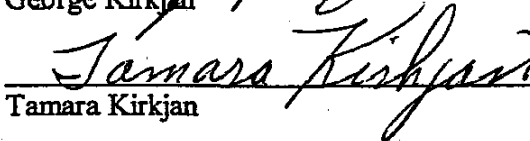
Section 7.18. Survival.

The provisions hereof shall not terminate but rather shall survive any conveyance hereunder and the delivery of all consideration.

IN WITNESS WHEREOF, the parties hereto have entered into this agreement as of the day and year first above written.

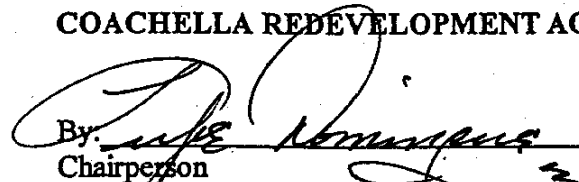
"Developer"


George Kirkjan


Tamara Kirkjan

"Agency"

COACHELLA REDEVELOPMENT AGENCY

By 
Chairperson

ATTEST:


Secretary

EXHIBITS

- Exhibit A - Legal Description of the Site
- Exhibit B - Restrictive Covenant and Option
- Exhibit C - Schedule of Performance
- Exhibit D - Form of Grant Deed
- Exhibit E - Form of Certificate of Completion

EXHIBIT A

LEGAL DESCRIPTION OF SITE

That certain real property located in the City of Coachella, County of Riverside, State of California, described as follows:

Parcel 11 of Tentative Parcel Map NO. 29564 in the City of Coachella, California

EXHIBIT B

Recording Requested By and
When Recorded Return To:

Coachella Redevelopment Agency
1515 Sixth Street
Coachella, California 92236
Attention: City Clerk

RESTRICTIVE COVENANT AND OPTION

This Restrictive Covenant and Option made this _____ day of _____, 2001, by and between GEORGE and TAMARA, KIRKJAN husband and wife, hereinafter collectively called the "Developer," and the COACHELLA REDEVELOPMENT AGENCY, a public body, corporate and politic, hereinafter called the "Agency."

RECITALS

- A. Developer and the Agency are the parties to a Disposition and Development Agreement dated as of March 28, 2001 (the "DDA"), which DDA concerns the sale by the Agency to Developer of certain real property located in the City of Coachella, County of Riverside, State of California, and which property is hereinafter referred to as the "Site" and is more particularly described in Exhibit 1 attached hereto;
- B. As required by the DDA, Developer wishes to impose certain limitations and restrictions on the use and development of the Site as required by law; and
- C. As required by the DDA, Developer wishes to secure its obligations to Agency to develop the Site by granting to Agency an option to purchase a portion of the Site.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, and by stating their intention to be legally bound hereby and in consideration of the promises herein contained, Developer covenants and agrees in favor of Agency as follows:

1. Developer covenants by and for itself, jointly and severally, and its successors and its assigns, that the Developer, such successors, and such assignees shall use the Site, and every part thereof, only for the construction of the Improvements (as defined in the DDA) thereon and operation of the businesses for which the Improvements are designed. The covenant to use the Site for this use shall run with the land for the benefit of the Agency and the Project Area for the purpose of protecting the interest of the community, and shall be binding on the Developer and all successors in interest of the Developer. These covenants shall run in favor of the Agency without regard to whether the Agency has been, remains or is an owner or holder of any land or interest in the Project Area. The Agency shall have the right, if such covenants are

breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of such covenants may be entitled, including, without limitation, specific performance, damages, and injunctive relief. The Agency shall have the right to assign all of its rights and benefits hereunder to the City.

2. After completion of the Project (as defined in the DDA), the Developer, and the Developer's transferees, successors and assigns, shall maintain the Site and the Project (including landscaping) in good and clean condition and repair.

3. Developer covenants by and for itself, jointly and severally, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, age, handicaps color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer or any person claiming under or through Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, age, handicaps color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through him, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, age, handicap, color, religion, creed, national origin or ancestry, in the leasing, subleasing, transferring, use, or enjoyment of the land herein leased, nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

(c) In contracts relating to the sale or transfer of the Site or any interest therein: "There shall be no discrimination against or segregation of any person or group of

persons on account of sex, marital status, race, age, handicap, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, subtenants, sublessees or vendees of the land."

4. Developer shall improve the Site in accordance with the DDA, within the time parameters shown on the Schedule of Performance attached to the DDA.

5. Developer further covenants that with respect to the construction, operation, and maintenance of the Project (as defined in the DDA) and operation of businesses from the Site (as defined in the DDA), Developer shall give a first priority preference in hiring to residents in redevelopment project areas in the City of Coachella, and a second priority preference in hiring to residents of the City of Coachella but do not live in redevelopment project areas, in situations in which prospective employees are otherwise equally qualified. Developer shall also provide in all purchase and sale agreements, grant deeds, leases, and contracts, that with respect to the construction and maintenance of all improvements on the Site and the operation of all businesses therefrom, all transferees, lessees, and contractors, and their successors and assigns, shall give a first priority preference in hiring to residents in redevelopment project areas in the City of Coachella, and a second priority preference in hiring to residents of the City of Coachella but do not live in redevelopment project areas, in situations in which prospective employees are otherwise equally qualified. Developer's failure to comply with this provision shall be a material breach of the DDA.

6. Developer hereby grants to the Agency an option to purchase the Site as follows:

(a) If Developer defaults on the DDA, at any time prior to issuance of a Certificate of Completion for the first phase of the Improvements pursuant to Section 3.13 of the DDA, then the Agency shall have an option to repurchase the entire Site at any time. The purchase price shall be the sum of \$92,565.00.

(b) Any option to purchase shall be exercised, if at all, by the Agency's delivery of written notice of its election to exercise the option to Developer at 86-740 Industrial Way, Coachella, California 92236, or to such other address as is provided by Developer to the Agency in writing for the purpose of delivering notices.

(c) Upon the issuance of the Certificate of Completion for the improvements to be constructed on the Site during Phase I, the Agency shall execute a memorandum terminating this option to purchase.

(d) Agency shall deliver the purchase price to Developer promptly following receipt of a policy of title insurance showing fee title to the Site in favor of Agency

subject only to exceptions that (i) existed at the time of Developer's acquisition of the Site, or (ii) were created with the written consent of the Agency or approved in writing by the Agency.

(e) The option to purchase the Site, or any portion thereof, shall expire, if unexercised, if notice of exercise of same is not delivered by the Agency to Developer on or before the date that is ten (10) years after the date of recordation hereof.

7. The right to enforce this Restrictive Covenant and Option shall be assignable by the Agency to any public entity having jurisdiction over the Site.

8. This instrument shall bind the heirs, representatives, successors and assigns of Developer, and shall inure to the benefit of the Agency, its successors and assigns.

9. This instrument contains the entire agreement of Developer and the Agency relating to the restrictions herein created and the option to purchase. Any modifications concerning this instrument shall be valid only if in writing and signed by the party to be charged.

10. The covenants and restrictions herein shall, without regard to technical classification and designation, be binding on the Developer and any successor in interest to the Site or any part thereof for the benefit and in favor of the Agency, its successors and assigns, and the City of Coachella. Except as set forth below, the covenants contained in this Agreement shall remain in effect until October 1, 2025, unless this Agreement provides for their earlier termination. The covenants against discrimination (as described in Paragraph 3) shall remain in perpetuity.

IN WITNESS THEREOF, Developer has caused this Restrictive Covenant and Option to be duly executed as of the day, month, and year first above written.

"Developer"

George Kirkjan

Tamara Kirkjan

"Agency"

COACHELLA REDEVELOPMENT AGENCY

By: _____
Chairperson

ATTEST:

Secretary

State of California

County of _____ }

On _____, 2001, before me, _____, Notary Public,
personally appeared _____,
personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

(seal)

EXHIBIT C

SCHEDULE OF PERFORMANCE

DESERT VALLEY DATE -- COACHELLA REDEVELOPMENT AGENCY

<u>Activity</u>	<u>Time Frame</u>
<u>Developer and Agency open Escrow</u>	Within 5 days after the date hereof
<u>Agency orders title report and delivers same to the Developer</u>	Within 10 days after the date hereof
<u>Developer reviews and approves or disapproves the title report</u>	Within 10 days after receipt of the title report from the Agency
<u>Close of Escrow and delivery of title policy</u>	180 Days from the Effective Date
<u>Submission - Basic Concept Drawings.</u> Developer shall submit to the Agency for approval Basic Concept Drawings.	Not later than 52 months from the Closing Date
<u>Approval - Basic Concept Drawings.</u> Agency shall approve, approve subject to conditions or disapprove the Basic Concept Drawing submission.	Within 45 days after receipt by the Agency.
<u>Submission - Preliminary Plans and Landscaping Plans.</u> Developer shall submit for Agency approval Preliminary Plans and Landscaping Plans.	Not later than 30 days after Agency approval of Basic Concept Drawings.
<u>Approval - Preliminary Plans and Landscaping Plans.</u> Agency Executive Director or designee shall approve, approve subject to conditions or disapprove the submittal.	Within 45 days after receipt by the Agency.
<u>Submission - Final Plans and Specifications.</u> Developer shall submit to Agency for Agency approval Final Plans and Specifications.	Within 30 days after Agency approval of Preliminary Plans and Landscaping Plans.

Approval - Final Plans and Specifications. Agency Executive Director or Designee shall approve, approve subject to conditions or disapprove the submittal.

Within 30 days after receipt by the Agency.

Developer Commences Construction of Improvements.

By the end of 36 months from the Effective Date.

Developer Completes Construction of Improvements.

By the end of 60 months from the Effective Date.

Construction Contract and Bond. Developer shall deliver to Agency a copy of the fully executed construction contract and performance bond and labor and material payment bond described in Section 3.8 of the Agreement

At least 10 days prior to commencement of any construction.

Construction Loan. Developer shall deliver to Agency evidence of construction financing for each phase of the Improvements.

At least 15 days prior to commencement of construction of the applicable Improvements.

Insurance. Developer shall furnish the Agency evidence of insurance as required by Section 7.1.

Not later than 30 days prior to commencement of construction of any Improvements on the Site

Issuance of Certificate of Completion. Upon completion of construction in conformance with this Agreement, the Agency Executive Director or designee shall issue a Certificate of Completion for the Improvements.

Within 30 days after Agency receives written request from Developer if all requirements of the Agreement have been satisfied.

EXHIBIT D

GRANT DEED

RECORDING REQUESTED BY

Coachella Redevelopment Agency

AND WHEN RECORDED RETURN TO:

**George Kirkjan
Desert Valley Date
86-740 Industrial Way
Coachella, California 92236**

GRANT DEED

The undersigned Grantor Declares:

Exempt from Documentary Transfer Tax is \$0.00 pursuant to R & T Code Section 11922.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the COACHELLA REDEVELOPMENT AGENCY, a public body, corporate and politic ("Grantor"), hereby grants to GEORGE and TAMARA KIRKJAN, husband and wife (collectively, "Grantee"), certain real property (the "Site") described in Exhibit A attached hereto and incorporated herein by this reference.

1. This Grant of the Site is subject to the Redevelopment Plan and pursuant to a Disposition and Development Agreement (the "Agreement") entered into by and between Grantor and Grantee dated July 24, 2001, the terms of which are incorporated herein by reference. A copy of the Agreement is available for public inspection at the offices of the Grantor, 1515 Sixth Street, Coachella, California 92236. The Site is conveyed further subject to all easements, rights of way, covenants, conditions, restrictions, reservations and all other matters of record.

2. The Grantee covenants by and for itself, its representatives, its successors and assigns and every successor in interest to the Site or any part thereof, that during construction of improvements and thereafter the Grantee shall not use or permit the use of the Site in violation

of the Redevelopment Plan, as adopted by the City of Coachella by its Ordinance No. 470 on May 4, 1982. The Grantee further covenants and agrees for itself, and its successors and its assigns, that the Developer, such successors, and such assignees shall use the Site and every part thereof only for the construction of the Improvements (as defined in the Agreement) thereon and operation of the businesses for which the Improvements are designed. The Grantee further covenants and agrees that upon completion of the any Improvements described in the Agreement, the Grantee shall maintain the such Improvements (including landscaping) in good condition and repair.

3. By acceptance hereof, Grantee agrees, for themselves, jointly and severally, their successors and assigns, to refrain from restricting the rental, sale or lease of the Site on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin or age of any person in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Grantee themselves or any persons claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees, or vendees in the Site. The foregoing covenants shall run with the land.

All deeds, leases or contracts entered into with respect to the Site shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, national origin, sex, marital status, age or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there be no discrimination against or segregation of any person or group of persons, on account of age, race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the land herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

(c) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, age, national

origin, sex, marital status or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land."

The foregoing shall be a covenant running with the land for the benefit of, and as a burden upon the property described herein.

4. Grantee hereby grants the Agency a first right of refusal to purchase the Site from the Grantee prior to the Developer's sale of the Site to any third party (the "First Right of Refusal"). This First Right of Refusal shall be in favor of the Agency for a term of seventy-five (75) years from the date of recording of this Grant Deed. Provided, however, that the First Right of Refusal shall not arise should Grantee determine, based upon estate planning considerations to transfer the property to a revocable living trust or should Grantee transfer the property to Desert Valley Date, a California corporation.

5. All covenants contained in this Grant Deed shall run with the land and shall be binding for the benefit of Grantor and its successors and assigns and such covenants shall run in favor of the Grantor and for the entire period during which the covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies provided herein or otherwise available, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor and its successors and assigns.

6. The covenants contained in Paragraph 2 of this Grant Deed shall remain in effect until the expiration date of the Redevelopment Plan (as amended or extended from time to time). The covenants contained in Paragraph 3 of this Grant Deed shall remain in effect in perpetuity.

COACHELLA REDEVELOPMENT
AGENCY, a public body corporate and
politic

By: _____
Chairperson

Attest:

Secretary

Accepted and Agreed:

George Kirkjan

Tamara Kirkjan

"Grantee"

State of California }
County of _____ }

On _____, 2001, before me, _____, a Notary Public,
personally appeared _____,
personally known to me (or 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(ices), 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.

WITNESS my hand and official seal.

Signature _____

(seal)

State of California }
County of _____ }

On _____, 2001, before me, _____, a Notary Public,
personally appeared _____,
personally known to me (or 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(ices), 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.

WITNESS my hand and official seal.

Signature _____

(seal)

EXHIBIT E

CERTIFICATE OF COMPLETION

Recording Requested by and
When Recorded Return to:

Coachella Redevelopment Agency
1515 Sixth Street
Coachella, California 92236
Attention: City Clerk

CERTIFICATE OF COMPLETION

This Certificate of Completion is given this ___ day of _____, 20___, with reference to the following matters:

A. The COACHELLA REDEVELOPMENT AGENCY, a public body corporate and politic (the "Agency") and GEORGE and TAMARA , KIRKJAN, husband and wife (collectively, the "Developer") entered into a certain Disposition and Development Agreement dated as of July 24, 2001 (the "Agreement"), which Agreement provides, in Section 3.13 thereof, that the Agency shall furnish the Developer with a Certificate of Completion upon satisfactory completion of the Improvements (as described in the Agreement) on the real property described therein as the Site (the "Site"), which certificate shall be in such form as to permit it to be recorded in the Recorder's Office of Riverside County; and

B. The Certificate of Completion shall be conclusive determination of satisfactory completion of the construction Improvements required with respect to the portion of the Site described in Exhibit 1 attached hereto; and

C. The Agency has determined that the construction of the Improvements has been satisfactorily performed; and

NOW, THEREFORE, the parties to this instrument hereby provide as follows:

1. As provided in the Agreement, the Agency does hereby certify that the construction of the Improvements on the portion of the Site described in Exhibit 1 attached hereto has been satisfactorily performed and completed.

2. This Certificate shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, or deed of trust or any insurer of a mortgage, or deed of trust securing money loaned to finance the improvements or any part thereof, nor does it constitute evidence of payment of any promissory note or performance of any deed of trust provided by the Developer to the Agency under the Agreement or otherwise.

COACHELLA REDEVELOPMENT AGENCY

By _____
Chairperson

ATTEST:

Secretary

STATE OF CALIFORNIA)
)
COUNTY OF _____) S.S.

On _____, 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ personally known to me (or 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.

WITNESS my hand and official seal

Signature _____

WITNESS my hand and official seal.

AGREEMENT FOR REFORMATION OF
DISPOSITION AND DEVELOPMENT AGREEMENT

The Coachella Redevelopment Agency ("*Agency*"), and George Kirkjan and Tamara Kirkjan, are the signatory parties ("*Parties*") to a Disposition and Development Agreement ("*DDA*"), the terms and conditions of which do not accurately reflect their intent. This Agreement will reform that DDA to accurately reflect their intent; and become effective upon execution by both Parties.

RECITALS

a. Identification of "Developer"

1. The Agency and "*George Kirkjan and Tamara Kirkjan, husband and wife, doing business as Desert Valley Date, Inc.*" (collectively, '*Developer*') entered into such DDA on the "*Effective Date*" of July 24, 2001, which has not thereafter been amended, for acquisition of the approximately 4.25 acre "*Site*" described in Exhibit A of the DDA from the Agency, and development of the Site with certain Improvements.

2. Resolution No. 2001-40 of the Coachella City Council, and Resolution No. 276 of the Agency, authorized sale of the Site to "*George and Tamara Kirkjan, d/b/a Desert Valley Date (the 'Developer').*"

3. The "*Report in Compliance with Section 33433 of the Health and Safety Code of the State of California,*" states that the Agency was considering entering into a DDA with "*George and Tamara Kirkjan dba Desert Valley Date, Inc., a California corporation (the 'Developer').*"

4. A letter from the attorney for the Developer to Bill Claire, City Economic Development Director, dated August 23, 2000, reviewed the DDA and made a number of suggested revisions, including "*The Developer should be George Kirkjan rather than Desert Valley Date.*" The name of Tamara Kirkjan was omitted, but presumably that was inadvertent.

5. The grant deed conveying ownership of the Site, in the form attached to the DDA as Exhibit "D," simply to "*GEORGE and TAMARA KIRKJAN, husband and wife (collectively, 'Grantee')*" was recorded by the Agency on January 31, 2002.

6. The "*Restrictive Covenant and Option to Purchase*" containing the Agency option to repurchase all or a portion of the Site if the Developer failed to comply with the terms of the DDA required to insure compliance with its use restrictions and to protect the Agency's interest in seeing that the Site is improved with the required Improvements, also was executed by "*GEORGE and TAMARA KIRKJAN husband and wife, hereinafter collectively called the 'Developer.'*"

b. Developer Indemnification of Agency

1. Section 3.1.2 of the DDA requires the Developer to “*comply with...any and all applicable...state...laws.*”

2. Section 3.11 also provides that “*The Developer shall carry out the construction of the Improvements in conformity with all applicable laws, including all applicable...state...laws, rules, regulations and standards.*”

3. Among such state laws, rules and regulations are those of Labor Code Section 1770 et seq., regarding payment of prevailing wages, including those imposed by Section 1781 (added by SB 966 of the 2003 Legislative session as CH 804, Stats of 2003), potentially exposing the Agency to liability for increased prevailing wage rate labor costs, fines and penalties.

4. Section 7.2 also provides that:

“The Developer shall indemnify, defend, protect and hold harmless the Agency and the City and any and all agents, employees and representatives of the Agency and the City, from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney’s fees) and demands of any nature whatsoever, related directly or indirectly to, or arising out of or in connection with:

- (i) the use, ownership, management, occupancy, or possession of the Site,*
- (ii) any breach or Default of the Developer hereunder,*
- (iii) any of the Developer’s activities on the Site (or the activities of the Developer’s agents, employees, lessees, representatives, licensees, guests, invitees, contractors, subcontractors, or independent contractors on the Site), including without limitation the construction of any Improvements on the Site,...*
- (v) any other fact, circumstance or event related to the Developer’s performance hereunder, or which may otherwise arise from the Developer’s ownership, use, possession, improvement, operation or disposition of the Site, regardless of whether such losses and liabilities shall accrue or are discovered before or after termination or expiration of this Agreement, or before or after the conveyance of the Site, except to the extent such losses or liabilities are caused by or contributed by the negligent or intentionally wrongful act of the Agency.”*

c. Required "Improvements"

Section 3.1.1 of the DDA states that *"The 'Improvements' to be completed by Developer shall be a building consisting of at least 10,000 square feet of building area (the 'Building') and shall include such other landscaping and public improvements as are reasonably required by the Agency."*

Section II B. of the Section 33433 Report states that *"The Developer intends to construct a 10,000 square foot industrial building on the Site for agricultural processing and storage similar to the structure that exists on the property immediately to the West of Parcel 11 [the Site]..."*

City Council Resolution No. 2001-40 and Agency Resolution No. 276 further describe the DDA "Project" as *"... the construction on the Property of a 10,000 square foot building for date processing."*

The construction of only a 10,000 square foot industrial building on this 4.25 acre Site is a disproportionately small development obligation by the Developer, and there also was significant discussion by the Developer and Agency about construction of not only this initial phase one building of 10,000 square feet, but also a second phase two building of approximately 20,000 square feet. The initial concept plan recently submitted by the Developer for City approval also shows such a second building.

d. Schedule of Performance

Section 7.9 of the DDA provides that *"Time is of the essence of this Agreement."*

Recital G of the DDA further states that *"A material inducement to the Agency to enter into this Agreement is the agreement by the Developer to construct the Improvements within a limited period of time, and the Agency would be unwilling to enter into this Agreement in the absence of an enforceable commitment by the Developer to construct the Improvements within a limited period of time."*

Section 7.8 of the DDA also provides the Agency with a right of first refusal, based on its declaration that *"The Developer covenants to construct the Improvements and that the Developer's intent is to develop the Site and not for speculation in the value of real property."*

Section 6.2.2 of the DDA further provides that *"The rights established in this Agreement are to be interpreted in light of the fact that the Agency will convey the Site to the Developer for development and operation of the Project thereon and not for speculation in undeveloped land..."*

Section II B. of the Health & Safety Code Section 33433 Report, dated July 24, 2001, provided that *"The Developer intends to construct a 10,000 square foot industrial building on the Site for agricultural processing and storage similar to the structure that exists on the property immediately to the West of Parcel 11 within 3 years from the date of the Agreement."* (emphasis added)

Section 3.1.1 of the DDA also requires that *"The 'Improvements' to be completed by Developer shall be...completed, ready for occupancy, and open for business no later than three (3) years from the Closing (the 'Completion Date'),"* i.e., January 31, 2005 . (emphasis added)

Both City Council Resolution No. 2001-40 and Agency Resolution No. 276, authorizing the sale of this Site, further describe the DDA "Project" in a manner consistent with that *"Completion Date"* i.e., *"...construction on the Property of a 10,000 square foot building for date processing within 3 years of the sale."*

However, Section 3.6 of the DDA also provides that *"The Developer shall begin and complete all construction within the times specified in the Schedule of Performance."* [attached as Exhibit "C"]; and Section 4 of the Restrictive Covenant and Option also provides that *"Developer shall improve the Site in accordance with the DDA, within the time parameters shown on the Schedule of Performance attached to the DDA,"*

Section 6.1.1 of the DDA defines a default as *"The Developer's failure to commence construction of the Improvements or to complete construction of the Improvements in accordance with the time parameters set forth in the Schedule of Performance ..."*

However, Section 6.1.6 of the DDA also defines a default as *"The Developer's failure to perform any requirement or obligation of Developer set forth herein or in the Schedule of Performance not heretofore described on or prior to the date for such performance set forth herein or in the Schedule of Performance, and the failure of the Developer to cure or perform such obligation or requirement within 15 days after written notice of such delinquency."* (emphasis added)

The Schedule of Performance in Exhibit "C" provides that *"Commencement of Construction"* is required after prior submission and Agency approval of Basic Concept Drawings, Preliminary Plans and Landscaping Plans, Final Plans and Specifications, Construction Contract and Bond, Construction Loan and Insurance, (none of which has been done yet) on or before 36 months after the *"Effective Date,"* defined in the DDA Introduction as July 24, 2001, i.e., July 24, 2004. However, The Schedule of Performance also inconsistently provides that the Developer is not required to submit these Basic Concept Drawings until 52 months after the *"Closing Date"* (defined by Section 1.1.6 as the date of recordation of the grant deed to the Developer, i.e. January 31, 2002, which would be May 31, 2006). This would be after the Completion Date required by Section 3.1.1 of the DDA, the City Council Resolution No 2001-40, Agency Resolution 276, and the Section 33433 Report.

Section 2.3.2 of the DDA defines "*Closing*" as the date on which the grant deed is recorded and the Purchase Price and Transaction Costs are paid to the Agency. However, § 1.1.6 also defines "*Closing Date*" as the date on which the grant deed is recorded, without regard to any payment to the Agency. The Agency receipt for the sale proceeds was not dated until February 6, 2002. The signatures of Agency officials on the grant deed were not notarized until January 23, 2002, a date changed from the previously stated date in 2001, although the gratuitous signatures of the Developer agreeing to and accepting the terms of that deed had been notarized on January 29, 2001. Without this notarization of the Agency signatures, the grant deed could not have been recorded. While it is not free from doubt, the appropriate Closing Date is assumed to be January 31, 2002.

It also should be noted that for some reason the Closing of the sale escrow did not occur until over six months after the DDA "*Effective Date.*"

However, the Schedule of Performance in Exhibit "C" also provides that the Developer is not required to complete construction of such Improvements until 60 months from that "*Effective Date,*" i.e., July 24, 2006 rather than the January 31, 2005 "*Completion Date*" required by Section 3.1.1 of the DDA and referred to in Section IIB of the Health & Safety Code Section 33433 Report.

Two separate discretionary one-year extensions of the "*Completion Date,*" although not of the "*Commencement of Construction*" or any other performance date, are available to the Developer under § 3.1.1 of the DDA, upon Agency approval of written application to the Executive Director of the Agency. However, no such application or notice has been received by the Agency.

In addition, § 7.12 of the DDA, erroneously referred to in Section 6.1.1 of the DDA as § 7.11, authorizes extensions for force majeure causes upon written notice to the Agency by Developer of such delay within 10 days of commencement of such causes, unlimited in number but limited to the duration of the delay created by such causes. However, no such written notice has been received by the Agency.

e. Notice of Default

In accordance with Section 7.3 of the DDA, on August 9, 2004 the Agency served the Developer with a notice of default for its failure to commence construction of the minimum 10,000 square foot industrial building by July 24, 2004. Developer also was advised in such notice that it was authorized by the DDA to cure that default within 15 days of such notice.

f. Notice of Termination of DDA and Election to Exercise Option

On August 30, 2004, after failure of the Developer to cure such default within the prescribed 15 day period, the Agency served the Developer with its Notice of Termination of the DDA and Election of Option to repurchase the Site. On September 22, 2004, the City Council, acting as the governing body of the Agency, also approved

such repurchase and authorized a budget amendment in the amount of \$93,765.00 to complete that repurchase transaction.

AGREEMENT

The following reformation of the DDA hereby is made, to accurately reflect the intent of the signatory parties to the DDA:

a. Identification of "Developer"

The "*Developer*" referred to in the DDA is George Kirkjan and Tamara Kirkjan, husband and wife, as Joint Tenants.

b. Developer Indemnification

The indemnification of the Agency by Developer in Section 7.2 of the DDA includes the obligation of Developer to defend, indemnify and hold harmless the Agency and the City of Coachella, and all their agents, employees and representatives against all losses, liabilities, claims, damages, fines, penalties, forfeitures, costs and expenses, including all attorneys' fees and other litigation costs, relating to the failure of Developer to pay prevailing wages in accordance with the requirements of California Labor Code Section 1770, et seq., including without limitation Section 1781.

Developer acknowledges and agrees that it may be required to cause all of its contractors and their contractors to pay prevailing wages in compliance with California Health and Safety Code Sections 33423 through 33426 and California Labor Code Section 1770 et seq., and be responsible for the keeping of all records required pursuant to Labor Code Section 1770 et seq., including but not limited to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto. Developer also acknowledges and agrees that it shall be independently responsible for reviewing the applicable law and regulations with respect to the payment of prevailing wages and complying therewith.

c. Required "Improvements"

The Improvements required to be provided by the Developer shall include not only the first phase construction on the Site of an industrial building of not less than approximately 10,000 square feet, but also a second phase construction of another industrial building of approximately 20,000 square feet, in accordance with the Schedule of Performance attached hereto as Exhibit "C".

d. Schedule of Performance

Performance by the Developer shall be in accordance with that Schedule of Performance attached to this Agreement as "Revised Exhibit 'C'."

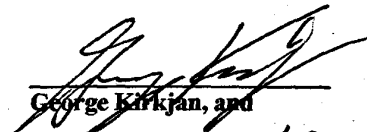
e. Notice of Default

Agency hereby revokes its Notice of Default, contingent upon and effective upon execution of this Reformation Agreement by the Developer and the Agency.

f. Notice of Termination and Election to Exercise Option

Agency hereby revokes its Notice of Termination of the DDA and Election to Exercise its Option to repurchase the Site, contingent upon and effective upon execution of this Reformation Agreement by the Developer and the Agency.

"DEVELOPER"


George Kirkjan, and 1-17-05
Date


Tamara Kirkjan, 1-17-05
Date

Husband and Wife, as Joint Tenants

"AGENCY"

Coachella Redevelopment Agency

By: _____
Jesse Villarreal Date
Chairman

Attest: _____
Isabel Castillon Date
Secretary

REVISED EXHIBIT C

SCHEDULE OF PERFORMANCE

Submission of Agreement for Reformation of Disposition and Development Agreement. Developer shall submit to the Agency a copy of the Agreement for Reformation of Disposition and Development Agreement duly executed by the Developer.	Before January 17, 2005
Agency Approval of Agreement for Reformation of Disposition and Development Agreement. Agency shall approve or disapprove the Agreement for Reformation of Disposition and Development Agreement.	Within 30 days after Developer's submission to the Agency of an executed Agreement for Reformation of Disposition and Development Agreement.
Submission of Required Development Application. Developer shall submit the Development Application to the City of Coachella.	Within 30 days of Agency approval of Agreement for Reformation of Disposition and Development Agreement.
Developer and City Response. Developer shall respond to all requests by the City for additional information and/or revisions to plans.	Developer will respond to any request within 14 days. City will respond to any submission within 14 days.
Planning Commission Hearing on Preliminary Drawings. The Planning Commission will consider the proposed Preliminary Drawings.	Within 60 days of a determination by the City Community Development Department of a complete application.
Submission of Construction Drawings for Improvements. Developer shall submit to the City complete Construction Drawings for the Improvements.	Within 120 days after Planning Commission approval of the proposed Preliminary Drawings.
Public Works Review of Construction Drawings. The City Public Works Department shall approve or disapprove the Construction Drawings for the Improvements.	Within 45 days after submittal

Revisions of Construction Drawings by the Developer. Developer shall prepare revised Construction Drawings for the improvements as necessary, and resubmit them to the Public Works Department for review.

Within 14 days after receipt of Public Works Department comments

Final Review of Complete Construction Drawings. The City Public Works Department shall approve or disapprove the revisions submitted by Developer for the Improvements, and the Developer shall be ready to obtain grading and building permits provided that the revisions necessary to accommodate the Department's comments have been made.

Within 30 days after submittal by the Developer.

Commencement of Construction of First Phase Improvements. Developer shall commence grading of the Site and construction of the First Phase Improvements.

Within 30 days after final approval of the City Public Works Department

Completion of Construction of First Phase Improvements. Developer shall complete construction of the First Phase Improvements.

Within 12 months following commencement of construction of the Improvements.

Commencement of Construction of Second Phase Improvements. Developer shall commence grading of the Site and construction of the Second Phase Improvements.

Within 30 days after final approval of the City Public Works Department

Completion of Construction of Second Improvements
Developer shall complete construction of the Second Phase Improvements.

Within 3 years after issuance of the Certificate of Occupancy for the First Phase Improvements

EXHIBIT C
ORIGINAL GRANT DEED

DOC # 2002-056045

01/31/2002 08:00A Fee:28.00

Page 1 of 5 Doc T Tax Paid

Recorded in Official Records

County of Riverside

Gary L. Orso

Assessor, County Clerk & Recorder

Recording Requested by
CHICAGO TITLE COMPANY

RECORDING REQUESTED BY

Coachella Redevelopment Agency

AND WHEN RECORDED RETURN TO:

George Kirkjan
Tamara Kirkjan
45645 Cielito Drive
Indian Wells, Ca. 92210



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TRA: 012-017

APNS: 763-131-024-3(Portion)

763-131-023-2(Portion)

T
JB

GRANT DEED

The undersigned Grantor Declares:

Exempt from Documentary Transfer Tax is \$102³⁰ pursuant to R & T Code Section 11922.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the COACHELLA REDEVELOPMENT AGENCY, a public body, corporate and politic ("Grantor"), GRANTS TO: GEORGE KIRKJAN AND TAMARA KIRKJAN, husband and wife as joint tenants (collectively, "Grantee"), certain real property (the "Site") described in Exhibit A attached hereto and incorporated herein by this reference.

1. This Grant of the Site is subject to the Redevelopment Plan and pursuant to a Disposition and Development Agreement (the "Agreement") entered into by and between Grantor and Grantee dated July 24, 2001, the terms of which are incorporated herein by reference. A copy of the Agreement is available for public inspection at the offices of the Grantor, 1515 Sixth Street, Coachella, California 92236. The Site is conveyed further subject to all easements, rights of way, covenants, conditions, restrictions, reservations and all other matters of record.

2. The Grantee covenants by and for itself, its representatives, its successors and assigns and every successor in interest to the Site or any part thereof, that during construction of improvements and thereafter the Grantee shall not use or permit the use of the Site in violation

12010208-KOH

of the Redevelopment Plan, as adopted by the City of Coachella by its Ordinance No. 470 on May 4, 1982. The Grantee further covenants and agrees for itself, and its successors and its assigns, that the Developer, such successors, and such assignees shall use the Site and every part thereof *only for only for the construction of the Improvements (as defined in the Agreement) thereon and operation of the businesses for which the Improvements are designed.* The Grantee further covenants and agrees that upon completion of the any Improvements described in the Agreement, the Grantee shall maintain the such Improvements (including landscaping) in good condition and repair.

3. By acceptance hereof, Grantee agrees, for themselves, jointly and severally, their successors and assigns, to refrain from restricting the rental, sale or lease of the Site on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin or age of any person in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Grantee themselves or any persons claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees, or vendees in the Site. The foregoing covenants shall run with the land.

All deeds, leases or contracts entered into with respect to the Site shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, national origin, sex, marital status, age or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there be no discrimination against or segregation of any person or group of persons, on account of age, race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the land herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

(c) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, age, national

2002-056045
01/31/2002 08:08H
2 of 5



origin, sex, marital status or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land."

The foregoing shall be a covenant running with the land for the benefit of, and as a burden upon the property described herein.

4. Grantee hereby grants the Agency a first right of refusal to purchase the Site from the Grantee prior to the Developer's sale of the Site to any third party (the "First Right of Refusal"). This First Right of Refusal shall be in favor of the Agency for a term of seventy-five (75) years from the date of recording of this Grant Deed. Provided, however, that the First Right of Refusal shall not arise should Grantee determine, based upon estate planning considerations to transfer the property to a revocable living trust or should Grantee transfer the property to Desert Valley Date, a California corporation.


5. All covenants contained in this Grant Deed shall run with the land and shall be binding for the benefit of Grantor and its successors and assigns and such covenants shall run in favor of the Grantor and for the entire period during which the covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies provided herein or otherwise available, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor and its successors and assigns.

6. The covenants contained in Paragraph 2 of this Grant Deed shall remain in effect until the expiration date of the Redevelopment Plan (as amended or extended from time to time). The covenants contained in Paragraph 3 of this Grant Deed shall remain in effect in perpetuity.

COACHELLA REDEVELOPMENT
AGENCY, a public body corporate and
politic

By: 
Chairperson

Attest:


Secretary

Accepted and Agreed:


George Kirkjan


Tamara Kirkjan

"Grantee"



2002-056045
01/31/2002 08:00A
3 of 5

State of California

County of Riverside

On Jan. 23, 2002, before me, Linda Garza Garza a Notary Public, personally appeared Juan M. Delara and Isabel Castillon, Chair man and Secretary, of the Coachella Redev. Agcy., personally known to me (or 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(ices), 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.

WITNESS my hand and official seal.

Signature Linda Garza Garza



(seal)

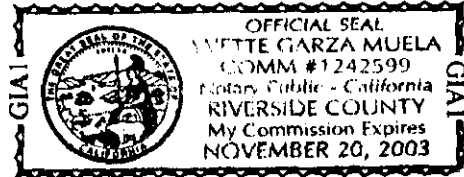
State of California

County of Riverside

On 1-29, 2001, before me, Yvette Garza Muela a Notary Public, personally appeared Georg Kirkjan and Tamara Kirkjan, personally known to me (or 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(ices), 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.

WITNESS my hand and official seal.

Signature Yvette Garza Muela



(seal)



C1520\0001\646712.3

- 1 -

2002-056045
01/31/2002 09:06A
4 of 5



DESCRIPTION EXHIBIT "A"

THOSE PORTIONS OF PARCELS 21 AND 22 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY PARCEL MAP ON FILE IN PARCEL MAP BOOK 165, PAGES 37 THROUGH 39 INCLUSIVE, OFFICIAL RECORDS OF SAID COUNTY OF RIVERSIDE, LOCATED IN SECTION 9, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 22;
THENCE NORTH 00° 05' 44" WEST ALONG THE WEST LINE OF PARCEL 22, A DISTANCE OF 563.24 FEET;
THENCE NORTH 89° 54' 50" EAST, A DISTANCE OF 329.15 FEET TO THE EAST LINE OF SAID PARCEL 21;
THENCE SOUTH 00° 02' 30" EAST ALONG SAID EAST LINE, A DISTANCE OF 563.24 FEET TO THE SOUTHEAST CORNER OF PARCEL 21;
THENCE SOUTH 89° 54' 51" WEST ALONG THE SOUTH LINES OF PARCELS 21 AND 22, A DISTANCE OF 328.62 FEET TO THE POINT OF BEGINNING.



2002-056045
01/31/2002 09:00A
5 of 5

EXHIBIT D

GRANT DEED NO. 2020-0334597

FIDELITY NATIONAL TITLE COMPANY

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
THIS GRANT DEED AND ALL
TAX STATEMENTS TO:

**This document was electronically submitted
to the County of Riverside for recording**
Received by: TERESA #134

DTT APPROVED #535

DVD Farming LLC
c/o 11812 San Vicente Boulevard, Suite 510
Los Angeles, California 90040
Attention: Mr. David Kohl

30047123-72

(Above Space for Recorder's Use Only)

GRANT DEED

TRA # 058-017

THE UNDERSIGNED GRANTOR DECLARES:

Documentary transfer tax is \$ 29,700.

- computed on full value of property conveyed, or
- computed on full value, less value of liens and encumbrances remaining at time of sale.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Kirkjan Investment Properties, L.P., a California limited partnership ("**Grantor**"), hereby GRANTS to DVD Farming LLC, a California limited liability company ("**Grantee**"), the following described real property (the "**Property**") located in the County of Riverside, State of California:

SEE SCHEDULE "1" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE,

Together with (i) all rights, privileges, easements, tenements, hereditaments, rights of way and appurtenances thereto and owned by Grantor, including, without limitation, all development rights, all minerals, oil, gas, and other hydrocarbon substances on or under the Property or any portion thereof, and air, access, utility and solar rights, water, water rights and water stock, if any, that pertaining or relating to the Property or any portion thereof, and (ii) all buildings, structures, or other improvements located on the Property and associated parking areas, and all trees and plants located or growing on the Property or any portion thereof.

SUBJECT TO:

1. General and special real property taxes and assessments, a lien not yet due and payable;
2. All other covenants, conditions, restrictions, easements, reservations, dedications, rights and rights-of-way of record; and

3. All (a) matters reasonably discoverable or ascertainable by inspection or an accurate ALTA survey of the Property, (b) zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Property, and (c) any other matters created, permitted or approved by Grantee.

7-22-20 *[Signature]*

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed as of the 22 day of July, 2020.

KIRKJAN INVESTMENT PROPERTIES, L.P.

By: *[Signature]*
Print Name: GEORGE KIRKJAN
Print Title: Pres
AKA George Harny Kirkjan

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 July 22, 2020, before me, Reina L. Sandoval,
(insert name of notary)

Notary Public, personally appeared George Harry Kerkyan,
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 *Reina Sandoval*

(Seal)



SCHEDULE 1

LEGAL DESCRIPTIONS

Cansino Ranch

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF RIVERSIDE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1: (APN: 749-030-053)

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE EASTERLY 30 FEET AND THE SOUTHERLY 15 FEET OF SAID LAND.

ALSO EXCEPTING THOSE PORTIONS CONVEYED TO COACHELLA VALLEY WATER DISTRICT BY GRANT DEED RECORDED DECEMBER 23, 2009 AS INSTRUMENT NO. 2009-658980 OF OFFICIAL RECORDS.

PARCEL 1A: (EASEMENT)

A PERPETUAL NON-EXCLUSIVE EASEMENT AND RIGHT-OF-WAY FOR IRRIGATION AND INCIDENTAL PURPOSES AS SET FORTH IN THE DOCUMENT ENTITLED "GRANT OF EASEMENT" RECORDED DECEMBER 23, 2009 AS INSTRUMENT NO. 2009-0658981 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 749-040-009)

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE EASTERLY 30 FEET AND THE NORTHERLY 15 FEET OF SAID LAND.

APN: 749-030-053-3, 749-040-009-5

Kristen Ranch

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THERMAL, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

LOT 3 IN SECTION 16, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, OF COACHELLA VALLEY LAND AND WATER COMPANY'S SUBDIVISION, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 4, PAGE 53 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE EASTERLY 5 FEET AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED DATED APRIL 1, 1902 AND RECORDED NOVEMBER 14, 1906 IN BOOK 233, PAGE 220 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

APN: 763-260-002

PARCEL B:

LOT 6 OF COACHELLA VALLEY LAND AND WATER COMPANY'S SUBDIVISION OF SECTION 16, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 4, PAGE 53 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THE EASTERLY 5 FEET AS CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1906 IN BOOK 233, PAGE 220 OF DEEDS, RIVERSIDE COUNTY RECORDS.

APN: 763-270-006

Narbonne Ranch

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THERMAL, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL A:

PARCEL NO. 2 OF PARCEL MAP 5025, AS SHOWN BY MAP ON FILE IN BOOK 9 PAGE 33 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS OVER THE WESTERLY 15 FEET OF PARCEL 1 OF PARCEL MAP 5025, AS SHOWN BY MAP ON FILE IN BOOK 9 PAGE 33 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL 2:

PARCEL 3 OF PARCEL MAP 5025, AS SHOWN BY MAP ON FILE IN BOOK 9, PAGE(S) 33 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 751-090-011-8, 751-090-012-9

Oasis School

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN AN UNINCORPORATED AREA (THERMAL AREA) IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 8 EAST, SAN BERNARDINO MERIDIAN;

EXCEPTING THEREFROM THOSE PORTIONS OF THE SOUTH AND WEST SIDES USED FOR PUBLIC HIGHWAYS.

APN: 755-142-011-6

Polk Ranch

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THERMAL, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, STATE OF CALIFORNIA, SAN BERNARDINO BASE AND MERIDIAN.

EXCEPTING THEREFROM THE WEST AND SOUTH 30 FEET.

APN: 757-270-003-9

Rancho David

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THERMAL, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 8 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

APN: 755-141-003-6

EXHIBIT E

GRANT DEED NO. 2020-0335834

FIDELITY NATIONAL TITLE COMPANY

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
THIS GRANT DEED AND ALL
TAX STATEMENTS TO:

**This document was electronically submitted
to the County of Riverside for recording**
Received by: MARIA #309

DVD Facility LLC
c/o 11812 San Vicente Boulevard, Suite 510
Los Angeles, California 90049
Attention: Mr. David Kohl

DTT APPROVED #535

30047121-72

(Above Space for Recorder's Use Only)

GRANT DEED

TRA# 012-017

THE UNDERSIGNED GRANTOR DECLARES:

Documentary transfer tax is \$ 11,000.00

- computed on full value of property conveyed, or
- computed on full value, less value of liens and encumbrances remaining at time of sale.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Kirkjan Investment Properties, L.P., a California limited partnership ("**Grantor**"), hereby GRANTS to DVD Facility LLC, a California limited liability company ("**Grantee**"), the following described real property (the "**Property**") located in the County of Riverside, State of California:

SEE SCHEDULE "1" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE,

Together with (i) all rights, privileges, easements, tenements, hereditaments, rights of way and appurtenances thereto and owned by Grantor, including, without limitation, all development rights, all minerals, oil, gas, and other hydrocarbon substances on or under the Property or any portion thereof, and air, access, utility and solar rights, water, water rights and water stock, if any, that pertaining or relating to the Property or any portion thereof, and (ii) all buildings, structures, or other improvements located on the Property and associated parking areas, and all trees and plants located or growing on the Property or any portion thereof.

SUBJECT TO:


1. General and special real property taxes and assessments, a lien not yet due and payable;
2. All other covenants, conditions, restrictions, easements, reservations, dedications, rights and rights-of-way of record; and

3. All (a) matters reasonably discoverable or ascertainable by inspection or an accurate ALTA survey of the Property, (b) zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Property, and (c) any other matters created, permitted or approved by Grantee.

The Grantee herein covenants (i) by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, national origin, sex, sexual orientation, marital status, age or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the Grantee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees in the land herein conveyed, and (y) with respect to the construction and maintenance of all improvements on the Property and the operation of all businesses from the Property, Grantee and all of its transferees, lessees, and contractors, and their successors and assigns, shall give a first priority preference in hiring to residents in redevelopment project areas in the City of Coachella, and a second priority preference in hiring to the residents of the City of Coachella who do not live in redevelopment project areas, in situations in which prospective employees are otherwise equally qualified. The foregoing covenants shall run with the land.

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed as of the 22 day of July, 2020.

KIRKJAN INVESTMENT PROPERTIES, L.P.

By: 
Print Name: GEORGE KIRKJAN
Print Title: Pres.
AKA George Harry Kirkjan

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 July 22, 2020, before me, Reina L. Sandoval,
(insert name of notary)

Notary Public, personally appeared George Harry Kurkjan,
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 Reina Sandoval

(Seal)

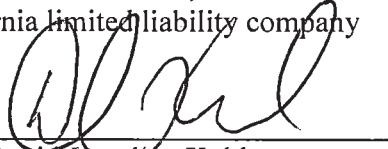


SIGNATURE PAGE
FIDELITY NATIONAL TITLE INSURANCE COMPANY

Escrow File No. _____

Dated: July 17 2020

DVD FACILITY LLC,
a California limited liability company

By: 
Name: David Jonathon Kohl
Title: Authorized Signatory

SCHEDULE 1**LEGAL DESCRIPTIONS**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COACHELLA, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 2 OF PARCEL MAP 23812, AS SHOWN ON MAP ON FILE IN BOOK 155, PAGES 22 AND 23 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

PARCELS 21 AND 22 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN PARCEL MAP BOOK 165, PAGES 37 THROUGH 39, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY TOGETHER AS A SINGLE PARCEL AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 22; THENCE,

NORTH 89°54'50" EAST ALONG THE NORTH LINES OF SAID PARCELS 21 AND 22, A DISTANCE OF 329.23 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 21; THENCE,

SOUTH 00°02'30" EAST ALONG THE EAST LINE OF SAID PARCEL 21, A DISTANCE OF 649.98 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 21; THENCE,

SOUTH 89°54'51" WEST ALONG THE SOUTH LINES OF SAID PARCELS 21 AND 22, A DISTANCE OF 328.62 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 22; THENCE,

NORTH 00°05'44" WEST ALONG THE WEST LINE OF SAID PARCEL 22, A DISTANCE OF 649.97 FEET TO SAID POINT OF BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 22.

SAID DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF PARCEL MERGER, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND RECORDED SEPTEMBER 5, 2019 AS INSTRUMENT NO. 2019-0345508 OF OFFICIAL RECORDS.

PARCEL C:

PARCEL 20 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 165, PAGES 37 THROUGH 39 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 15, 1997 AS INSTRUMENT NO. 97-458396 OF OFFICIAL RECORDS.

APN: 763-131-028, 763-131-051, 763-131-052 AND 763-131-022

PRELIMINARY REPORT
Your Reference:

Fidelity National Title Company
Order No.: 997-30047121-B-TC1

EXHIBIT A LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COACHELLA IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 2 OF PARCEL MAP 23812, AS SHOWN ON MAP ON FILE IN BOOK 155, PAGES 22 AND 23 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

PARCELS 21 AND 22 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN PARCEL MAP BOOK 165, PAGES 37 THROUGH 39, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY TOGETHER AS A SINGLE PARCEL AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 22; THENCE,

NORTH 89°54'50" EAST ALONG THE NORTH LINES OF SAID PARCELS 21 AND 22, A DISTANCE OF 329.23 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 21; THENCE,

SOUTH 00°02'30" EAST ALONG THE EAST LINE OF SAID PARCEL 21, A DISTANCE OF 649.98 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 21; THENCE,

SOUTH 89°54'51" WEST ALONG THE SOUTH LINES OF SAID PARCELS 21 AND 22, A DISTANCE OF 328.62 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 22; THENCE,

NORTH 00°05'44" WEST ALONG THE WEST LINE OF SAID PARCEL 22, A DISTANCE OF 649.97 FEET TO SAID POINT OF BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 22.

SAID DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF PARCEL MERGER, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND RECORDED SEPTEMBER 5, 2019 AS INSTRUMENT NO. 2019-0345508 OF OFFICIAL RECORDS.

PARCEL C:

PARCEL 20 OF PARCEL MAP NO. 25095, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 165, PAGES 37 THROUGH 39 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 15, 1997 AS INSTRUMENT NO. 97-458396 OF OFFICIAL RECORDS.

APN: 763-131-028, 763-131-051, 763-131-052 AND 763-131-022

EXHIBIT F
CONSENT TO TRANSFER CERTIFICATE

CONSENT TO TRANSFER CERTIFICATE

This Consent to Transfer Certificate (this “**Certificate**”) is executed and delivered by the Successor Agency to the Coachella Redevelopment Agency (the “**Agency**”), with reference to the following:

A. The COACHELLA REDEVELOPMENT AGENCY, a public body corporate and politic (the “**Former Agency**”), and GEORGE KIRKJAN and TAMARA KIRKJAN, husband and wife, as joint tenants (collectively, the “**Developer**”), entered into that certain Disposition and Development Agreement dated as of July 24, 2001 (the “**Original Agreement**”) (incorrectly referred to in the Restrictive Covenant (as defined below) as dated March 28, 2001), as amended by that certain Agreement and Reformation of Disposition and Development Agreement dated as of January 17, 2005 (the “**Reformation Agreement**”). The Original Agreement, as amended by the Reformation Agreement, is the “**DDA**”. Among other things, the DDA contemplated the construction by Developer of industrial buildings on the real property described therein as the Site (the “**Site**”), which Site is more particularly described on Exhibit A. A true and complete copy of the DDA is attached as Exhibit B.

B. Pursuant to the DDA, the Former Agency transferred the Site to the Developer via that certain Grant Deed recorded on January 31, 2002 in the Official Records of Riverside County as Document No. 2002-056045 (the “**Grant Deed**”). A true and complete copy of the Grant Deed is attached as Exhibit C.

C. Section 4 of the Grant Deed granted to the Former Agency a right of first refusal to purchase the Site from the Developer prior to the Developer’s sale of the Site to any third party (the “**Right of First Refusal**”).

D. Pursuant to the DDA, the Former Agency and Developer entered into that certain Restrictive Covenant and Option, recorded in the Official Records of Riverside County as Document No. 2002-056046 (the “**Restrictive Covenant**”). A true and complete copy of the Restrictive Covenant is attached as Exhibit D.

E. Section 6 of the Restrictive Covenant granted to the Former Agency an option to purchase the Site (the “**Purchase Option**”), which Purchase Option could be exercised if Developer failed to complete construction of the first phase of certain improvements at the Site as contemplated by Section 3.13 of the DDA (the “**First Phase Improvements**”). The Restrictive Covenant further provides that the Purchase Option would terminate upon the issuance of a Certificate of Completion by the Former Agency with respect to the First Phase Improvements, or, if the Former Agency does not provide notice of the exercise of the Purchase Option, on the date that is ten (10) years after the date of the recordation of the Restrictive Covenant (i.e., January 23, 2012).

F. Pursuant to Section 3.13 of the DDA and Section 6 of the Restrictive Covenant, the Former Agency furnished to Developer a Certificate of Completion, dated as of November 13, 2008, certifying that the construction of the First Phase Improvements was satisfactorily performed and completed (the “**Certificate of Completion**”). A true and complete copy of the Certificate of

Completion is attached as Exhibit E.

G. For estate planning purposes, the Developer quitclaimed the Site to KIRKJAN INVESTMENT PROPERTIES, L.P., a California limited partnership that is controlled by Developer (the “**Kirkjan Owner**”), via that certain Quitclaim Deed, recorded as of May 10, 2012 in the Official Records of Riverside County as Document No. 2012-0216360. A true and complete copy of such Quitclaim Deed is attached as Exhibit F.

H. The Kirkjan Owner now desires to sell the Site to DVD Facility LLC, a California limited liability company that is wholly owned as of the date hereof by JOOLIES LLC, a Delaware limited liability company (the “**Buyer**”), for a purchase price of [Ten Million Dollars (\$10,000,000.00)] (the “**Sale**”), which Sale will be financed, in part, by mortgage loans (collectively, the “**AgCredit Loan**”, and together with the Sale, the “**Transaction**”) to be made to Buyer by American AgCredit FLCA, a corporation existing and operating under the Farm Credit Act of 1971, and American AgCredit PCA, a corporation existing and operating under the Farm Credit Act of 1971 (collectively, “**AgCredit**”) concurrently with Buyer’s purchase of the Site From Kirkjan Owner.

I. The Agency is the successor to the Former Agency.

J. The Agency has no intent to exercise its Right of First Refusal with respect to or in connection with the Transaction. Accordingly, the Agency desires to execute and deliver this Certificate for the purpose of consenting to the Transaction and to evidence its decision not to exercise the Right of First Refusal with respect to or in connection with the Transaction, all as set forth below.

NOW THEREFORE, the Agency hereby certifies, acknowledges and agrees to the following:

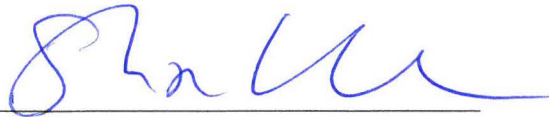
1. The Agency hereby consents to the Transaction, and agrees that it does not and will not exercise its Right of First Refusal with respect to or in connection with the Transaction. For the avoidance of doubt, the Right of First Refusal would not apply with respect to a foreclosure sale or deed-in-lieu thereof by AgCredit in connection with the AgCredit Loan. In the event that AgCredit takes title to the Site via a foreclosure sale or deed-in-lieu thereof, the Right of First Refusal would apply to a subsequent sale of the Site by AgCredit.

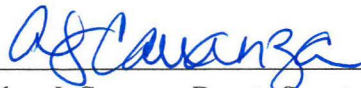
2. This certificate is given to and for the benefit of the Developer, the Kirkjan Owner and the Buyer, and may be relied on by the Developer, the Kirkjan Owner, the Buyer, and the Buyer’s lenders, and each of their respective successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

Executed and delivered as of the date first set forth above.

SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY

By: 
Steven Hernandez, Chair

By: 
Andrea J. Carranza, Deputy Secretary