

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

City of Desert Hot Springs as Successor Agency  
to the former Desert Hot Springs  
Redevelopment Agency  
Attn: Successor Agency Secretary  
65-950 Pierson Boulevard  
Desert Hot Springs, California 92240

APN(s): 639-293-023; 639-293-024; 639-293-025;  
639-293-026; 639-293-027; 639-293-028

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(Space Above this Line Reserved for Use by Recorder)

**(Exempt from recording fees pursuant to Government Code Sections 6103 and 27383)**

**PURCHASE AND SALE AGREEMENT  
AND  
JOINT ESCROW INSTRUCTIONS**

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THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "Agreement") is dated and made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date"), by and between the City of Desert Hot Springs as Successor Agency to the former Desert Hot Springs Redevelopment Agency, that was a public body, corporate and politic, duly organized and existing pursuant to the Community Redevelopment Law of the State of California ("Seller" or sometimes "Successor Agency"), on the one hand, and ASP Properties, LLC, a California limited liability company or its assignee ("Buyer"), on the other hand. Buyer and Seller are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

**WHEREAS**, pursuant to the Community Redevelopment Law (the "CRL") (Health and Safety Code Sections 33000 *et seq.*), the City Council of the City of Desert Hot Springs ("City") created the Desert Hot Springs Redevelopment Agency (the "Agency"); and

**WHEREAS**, as part of the Fiscal Year 2011-2012 State budget bill, the California State Legislature enacted, and the Governor signed, Assembly Bill x1 26 ("AB 26"), which added Parts 1.8 and 1.85 to the CRL, and which were intended to cause the dissolution and set in motion the wind down of all redevelopment agencies in California (the "Dissolution Act"); and

**WHEREAS**, on December 29, 2011, in the petition *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the Dissolution Act and thereby all redevelopment agencies in California were dissolved by operation of law as of February 1, 2012; and

**WHEREAS**, by Resolution No. 2012-003 considered and approved by the City Council on January 9, 2012, the City elected to become and serve as the successor agency to the Agency and assumed the responsibility of winding down the affairs of the Agency and disposing its assets under the direction of the Successor Agency's oversight board created under AB 26; and

**WHEREAS**, as of February 1, 2012, the Agency dissolved and the Successor Agency became operational; and

**WHEREAS**, AB 26 was amended by the State Legislature in June 2012, pursuant to Assembly Bill 1484 ("AB 1484") to provide new requirements and clarification of prior requirements related to the wind down of the affairs of the dissolved Agency; and

**WHEREAS**, the Successor Agency has the authority, rights, powers, duties and obligations previously vested with the Agency under the CRL that were not repealed by AB 26 and AB 1484; and

**WHEREAS**, the Successor Agency has obtained from the California Department of Finance ("DOF") any and all approvals that are required under AB 1484 to dispose the Property

to Buyer, including approval by the DOF of the Successor Agency's Long Range Property Management Plan ("LRPMP") and approval by DOF for Successor Agency to sell the Property (as defined below) in accordance with the LRPMP; and

**WHEREAS**, the Successor Agency owns in fee simple, vacant real property located at 66550 Pierson Boulevard and 66620 Pierson Boulevard, in the City of Desert Hot Springs, County of Riverside, State of California, as referenced by Assessor's Parcel Number(s) 639-293-023, 639-293-024, 639-293-025, 639-293-026, 639-293-027 and 639-293-028, consisting of approximately 2.87 acres (the "Property"), more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference; and

**WHEREAS**, Buyer desires to acquire the Property and may or may not develop the Property as part of a larger project (the "Project") in accordance with Buyer's plans and specifications for the Project, if any; and

**WHEREAS**, Seller now desires to sell to Buyer and Buyer desires to purchase from Seller, the Property at no less than the property valuation obtained by Seller as a Broker's Opinion of Value on the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants, promises and agreements contained herein, the Parties do hereby agree as follows:

### **AGREEMENT**

1. Purchase and Sale. Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller, for the Purchase Price, as defined in Section 2 below, upon the terms and conditions set forth in this Agreement.

2. Purchase Price and Financing Terms. The purchase price of the Property (the "Purchase Price"), shall be One Million Four Hundred Thousand Dollars (\$1,400,000.00). Buyer shall purchase the Property entirely in cash or cash equivalent. Buyer shall not obtain any financing for purchase of the Property.

3. Valuation of Property; Deposit.

3.1 The Parties understand, accept and acknowledge that the Purchase Price has been determined pursuant to a Broker's Opinion of Value that was obtained from a neutral third party broker, and such Purchase Price reflects an estimate of the fair market value of the Property. Such Broker's Opinion of Value was rendered by NAI Capital as of March 14, 2017.

3.2. Buyer shall make a cash deposit ("Deposit") with the Escrow Agent (as defined in Section 7.1 hereinbelow) in the amount of Twenty Five Thousand Dollars and No Cents (\$25,000.00) upon Opening of Escrow (as defined in Section 7.1 hereinbelow) into an interest bearing account with interest to accrue to Buyer, except in the event of a Buyer's breach of this Agreement prior to Close of Escrow. The Deposit is irrevocable, non-refundable to Buyer, and will be retained by Seller as liquidated damages in the event of a default by Buyer. The Deposit (including any interest as may have been earned thereon) will be applied to the Purchase Price due at Close of Escrow.

4. Title and Title Insurance. Seller shall convey by grant deed, good and marketable fee simple title to the Property to Buyer at the Close of Escrow (as defined in Section 7.2 below), free of any monetary encumbrances affecting the condition of title except as otherwise expressly permitted in Section 5.2 below. A condition to the Close of Escrow is Buyer's ability to secure an Owner's CLTA Standard Coverage Policy of Title Insurance (the "Title Policy") for the Property, showing title vested in Buyer in the condition required by this Agreement. The Title Policy amount shall equal the Purchase Price. The Title Policy shall be issued by Orange Coast Title Company (the "Title Company").

5. Buyer's Conditions Precedent. Buyer's obligation to perform under this Agreement and to purchase the Property shall be subject to the satisfaction or waiver of the conditions set forth in Section 4 as well as all of the conditions precedent in sub-sections 5.1 through 5.5, inclusive, described below, which are solely for the benefit of Buyer unless otherwise expressly stated elsewhere in this Agreement. In the event any of the said conditions are not satisfied within the time limits specified therein, Buyer may, at its sole option and discretion, either waive such conditions or terminate this Agreement.

5.1 Preliminary Title Report. Buyer shall obtain a preliminary title report for the Property within thirty (30) calendar days after the Effective Date (the "Preliminary Report"), together with complete and legible copies of all instruments referred to in the Preliminary Report as conditions or exceptions to title. In the event that Buyer, within ten (10) business days following receipt of the Preliminary Report, objects in writing to any monetary exceptions or exceptions which have a material effect on the use and/or value of the Property, which exceptions are disclosed therein, Seller shall be obligated to cause the removal of said exceptions on or before the Close of Escrow. In the event Seller agrees to but is unable to cause any such title discrepancy to be removed on or before the Close of Escrow, Buyer shall have the right to terminate this Agreement. Any termination authorized by this section shall be effected via a written notice from Buyer to Seller specifying the date of termination and the reasons therefor.

5.2 Approval of Title to the Property. Title to the Property shall be in the condition required by this Agreement as of Close of Escrow. At Close of Escrow, the Title Policy issued shall show as exceptions only the following: (i) the standard printed exceptions set forth in the Title Policy; (ii) general and special real property taxes and assessments, if any, for the current fiscal year, a lien not yet due and payable; (iii) recorded conditions, covenants and restrictions affecting the Property; and (iv) recorded covenants and easements.

5.3 Due Diligence Review. Within thirty (30) calendar days after the Opening of Escrow, as defined in Section 7.1 below, at its own expense, Buyer may, at its option, obtain data and conduct surveys, tests or appraisals, or otherwise inspect the Property and the suitability of the Property for the Project, if any, including, without limitation, the environmental, geotechnical and physical, zoning and land use aspects thereof ("Due Diligence Review"). Buyer may obtain a Phase I environmental report or any Phase II report necessitated by any preliminary environmental report at its sole expense. Buyer and its agents, employees, contractors and consultants shall be afforded reasonable access and entry onto the Property to conduct such studies, tests, appraisals, investigations and inspections as are reasonably necessary to complete the Due Diligence Review. Any reports and documents generated from any inspection or investigation shall be provided to Seller by no later than five (5) business days following receipt of such reports and documents by Buyer. The foregoing notwithstanding, Buyer shall request such access and entry from Seller in writing at least forty-eight (48) hours in

advance, exclusive of Fridays, weekends and holidays. Said request of Buyer shall outline in detail the particular activity to be conducted by Buyer upon the Property. All such studies, tests, appraisals, investigations and inspections shall occur at Buyer's sole cost and expense and shall be performed in a manner not unreasonably disruptive to the possession, use, occupancy and/or operation of the Property by Seller or the general public, as the case may be. Buyer shall repair any and all damage to the Property caused by its studies, tests, appraisals, investigations and inspections and shall indemnify and hold Seller harmless from any claim, liability, loss or expense including, without limitation, reasonable attorney fees and disbursements, asserted against Seller or the Property arising out of or relating in any way to Buyer's entry thereon. Seller shall be responsible for the cost of any remediation required pursuant to the results of a Phase II environmental report.

5.3.1 Buyer shall in its sole and absolute discretion approve or disapprove in writing the results of any inspections, studies and reports conducted in Section 5.3 herein within five (5) business days after providing such studies and reports to Seller. The absence of any notice of such approval or disapproval shall be deemed approval by Buyer. If Buyer for any reason disapproves the condition of the Property as set forth above, Buyer may terminate this Agreement by written notice to Seller; provided, however, that if Seller, at its option, agrees in writing to remediate all deficiencies in the Property to Buyer's satisfaction, such termination shall be ineffective. In such event, Seller shall be required to perform the remediation of the Property prior to and as Buyer's condition to Closing, and, all expenses of such remediation shall be borne by Seller, or in the alternative, credited to Buyer at Closing.

5.3.2 By no later than ten (10) business days after the Effective Date, Seller shall provide to Buyer or make available to Buyer for inspection, all materials specified below that are in Seller's possession or control ("Due Diligence Materials"). If Seller thereafter discovers any additional items that should have been included among the Due Diligence Materials, Seller shall promptly deliver them to Buyer. The Due Diligence Materials shall include: (a) copies of any existing and proposed leases, easements, covenants, restrictions, agreements, or other documents that, to Seller's knowledge, affect title to, or Seller's possession and/or use of, the Property that are not disclosed in the Preliminary Report; (b) all reports, plats, surveys or plans that, to Seller's knowledge, relate to the Property; (c) notice of any existing or threatened litigation that, to Seller's knowledge, affects or relates to the Property and copies of any pleadings with respect to that litigation; (d) all environmental assessment reports with respect to the Property that, to Seller's knowledge, were performed during the five (5) years preceding the Effective Date or that are currently being performed by or for Seller; (e) all copies of Phase I and Phase II environmental studies respecting the Property that are in Seller's possession; and (f) any current preliminary title insurance report that, to Seller's knowledge, relates to the Property.

5.3.3 Buyer, at Buyer's expense and as part of its Due Diligence Review, may cause the Property to be surveyed by a licensed surveyor and obtain an ALTA survey of the Property reflecting the boundaries of the Property, the location of all improvements, recorded easements, encroachments, utility locations and monuments, if any, located thereon, and all building and set back lines and other matters of record with respect thereto.

5.4 No Default. Seller shall not be in default in any of its obligations under the terms of this Agreement and all representations and warranties of Seller contained herein shall be true and correct in all material respects.

5.5 No Litigation. No litigation shall be pending or threatened which seeks to enjoin the transactions contemplated by this Agreement or to obtain damages in connection therewith.

6. Seller's Conditions Precedent. Seller's obligation to perform under this Agreement and to sell the Property shall be subject to the satisfaction or waiver of the conditions precedent set forth in Sections 6.1 through 6.3, inclusive, described below, which are solely for the benefit of Seller unless otherwise expressly stated elsewhere in this Agreement. In the event any of the said conditions are not satisfied within the time limits specified therein, Seller may, at its sole option and discretion, either waive such conditions or terminate this Agreement.

6.1 Payment of Funds. Buyer shall have paid the Purchase Price and all required costs of Closing into Escrow.

6.2 No Litigation. No litigation shall be pending or threatened which seeks to enjoin the transactions contemplated by this Agreement or to obtain damages in connection therewith.

6.3 No Default. Buyer shall not be in default in any of its obligations under the terms of this Agreement and all representations and warranties of Buyer contained herein shall be true and correct in all material respects.

7. Escrow. The purchase and sale of the Property shall be completed through Orange Coast Title Company in its offices located in Ontario, California, or another escrow company or location as reasonably determined by Seller ("Escrow" or "Escrow Agent").

7.1. Opening. Within five (5) business days of the Effective Date, Seller shall deposit with Escrow Agent, one fully executed Agreement, which shall constitute the Escrow instructions (the "Escrow Instructions"). The date of delivery to Escrow Agent of such fully executed Agreement shall be deemed the opening of escrow ("Opening of Escrow"), and Escrow Agent shall notify Buyer and Seller in writing of the Opening of Escrow date and its acceptance of the Escrow Instructions. The Parties hereby acknowledge that any and all instruments the Escrow Agent shall reasonably request shall be deposited into Escrow in order to carry out the purpose and intent of this Agreement.

7.2. Closing. Escrow shall close, as evidenced by the recordation of a grant deed (the "Grant Deed"), in substantially the same form as that attached hereto as Exhibit "B," and incorporated herein by this reference, in the Official Records of Riverside County, California, on or before five (5) calendar days from the expiration of the Due Diligence Review period (the "Close of Escrow" or "Closing"), it being understood that the Parties may extend the Closing to a date as mutually agreed upon in writing. The Parties agree that the Close of Escrow may occur sooner than the date or dates referenced above, provided the Parties are in a position to complete the purchase and sale of the Property as contemplated in this Agreement and the Parties agree to the same in writing. On or before the Close of Escrow, the Escrow Agent shall record the Grant Deed, Declaration of Redevelopment Covenants (see Section 9.4 below), and any other instruments required to be recorded, and shall deliver to the Parties the funds and documents to which they shall be respectively entitled, together with its escrow statement; provided that the Escrow Agent shall then have on hand all funds and documents necessary to complete the transaction, and provided that the Title Company has stated that it

shall be in a position to and will issue and deliver, upon recording of the Grant Deed, the title insurance required hereunder.

7.3 Closing Costs. Seller shall be responsible for one-half of the escrow fees and its share of the closing costs in accordance with local custom, including any pro-rations at Closing and all transfer, documentary and recording taxes, fees and/or charges imposed by governmental entities with respect to conveyance of the Property. Escrow Agent shall notify Buyer and Seller of the costs to be borne by the Parties no later than thirty (30) calendar days after Opening of Escrow. In the event of Buyer's material default under this Agreement, Buyer shall pay escrow cancellation fees, if any. In the event of Seller's material default under this Agreement, Seller shall pay escrow cancellation fees, if any. The total amounts needed at Closing may include, but shall not be limited to, the Purchase Price, any sums toward title fees, escrow fees, property taxes, inspection costs, transfer taxes, assessments, utilities, prepaid service contracts, recording fees, and any other costs or fees necessary for the Closing.

7.4 Additional Documents. Buyer and Seller shall execute such additional escrow instructions or other documents as Escrow Agent may reasonably require to cause the Close of Escrow, but in no event shall said additional escrow instructions or other documents increase the rights of one party against the other party hereto or modify the terms and conditions of this Agreement.

7.5 Possession. Seller shall deliver possession of the Property to Buyer immediately following the Close of Escrow.

7.6 Delivery of Documents and Funds. Seller shall deliver the Grant Deed and any additional documents required from Seller by Escrow Agent to Escrow Agent by no later than two (2) business days prior to the Close of Escrow. Buyer shall deliver the Purchase Price and any additional funds required to close Escrow to Escrow Agent at least twenty-four hours prior to the Close of Escrow.

8. Buyer's Acknowledgements and Indemnity. Buyer hereby understands, agrees and acknowledges that (a) Seller cannot, does not have the capacity nor legal authority to, and is not granting any land use, building or other entitlements as part of the sale of the Property to Buyer; (b) Buyer is not obligated to develop or construct anything on the Property; and (c) Buyer is solely responsible for seeking any development and/or building authorizations required by applicable law. In the event any tenant or other occupant should occupy or have the legal authority to occupy the Property as of Close of Escrow, Buyer shall defend, indemnify and hold harmless Seller and the City and their officers, officials, agents, employees and volunteers from any claims made by such tenant or occupant for any relocation benefits (including any and all costs and expenses in connection therewith). Buyer shall also defend, indemnify and hold harmless Seller and the City and their officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses and liability (including any and all costs and expenses in connection therewith) arising out of any failure to pay prevailing wages pursuant to the Labor Code and its regulations.

9. Buyer's Covenants Regarding Construction, Maintenance and Nondiscrimination.

9.1 Maintenance of the Property. Buyer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property, or any part thereof, that Buyer, such successors and such assigns shall maintain in good condition the improvements to

be constructed on the Property, shall keep the Property free from any accumulation of debris or waste material, subject to normal construction job-site conditions, and shall maintain in a neat, orderly, healthy and good condition any landscaping to be planted in connection with the Project, as may be required by the City. In the event Buyer, or its successors or assigns, fails to perform the maintenance as required herein, Seller shall have the right, but not the obligation, to enter the Property and undertake such maintenance activities. In such event, Buyer or the then owner of the Property shall reimburse Seller for all reasonable sums incurred by it for such maintenance activities.

9.2 Obligation to Refrain from Discrimination. Buyer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property; nor shall Buyer 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, sublessees or vendees of the Property.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

9.3 Form of Nondiscrimination and Nonsegregation Clauses. Buyer agrees that the covenants set forth in this section shall bind Buyer, for itself and its successors and assigns, and all subsequent holders of any interest in the Property. The covenants set forth in this section shall be covenants running with the land and shall consist of the following:

9.3.1 In Deeds: "The grantee herein covenants by and for itself, 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 any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee, or any person claiming under or through the grantee, 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 premises herein conveyed. The foregoing covenants shall run with the land."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing



for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

9.3.2. In Leases: “The Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee, or any person claiming under or through the grantee, 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 premises herein conveyed. The foregoing covenants shall run with the land.”

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

9.3.3. In Contracts: “There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee, or any person claiming under or through the grantee, 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 premises herein conveyed. The foregoing covenants shall run with the land.”

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and

subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

“The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.”

9.4 Effect and Duration of Covenants; Redevelopment Covenants. The covenants established against discrimination as set forth in Sections 9.2 and 9.3 shall remain in effect in perpetuity. The maintenance and other covenants and obligations as set forth in Section 9.1, shall remain in effect for the life of the Agency's Redevelopment Plan, as may be extended from time to time. The covenants contained in this Section 9 shall be known as the “Redevelopment Covenants” and a Declaration of Redevelopment Covenants shall be recorded against the Property substantially in the form attached hereto as Exhibit “C.”

The covenants set forth in this Section 9 shall run with the land and shall constitute equitable servitudes thereon. Seller is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land for and in its own rights and for the purposes of protecting the interests of the community. Seller 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 such other proper proceedings to enforce the curing of such breaches to which it or any other beneficiary of such covenants may be entitled, including, without limitation, to specific performance, damages and injunctive relief. Subject to existing laws, Seller shall have the right to assign all of its rights and benefits hereunder to the City.

10. Seller's Representations and Warranties. Seller hereby makes the following representations, warranties, and acknowledgments, and agrees that such representations, warranties and acknowledgments shall be true as of the Close of Escrow and shall survive the Close of Escrow for a period of one (1) year.

10.1 Seller, and the person executing this Agreement on behalf of Seller, has the full right, power and authority to enter into this Agreement and to convey title to the Property to Buyer, and to take all actions required of it by the terms of this Agreement.

10.2 All the documents executed by Seller which are to be delivered to Buyer at or before the Close of Escrow will be duly authorized, executed and delivered by Seller and will be legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principals relating to or limiting the rights of contracting parties generally) and will not violate any provisions of any agreement to which Seller is a party or to which it is subject.

10.3 Seller is the lawful fee simple owner of the Property and all improvements developed thereupon, which, as of the Close of Escrow, will be free and clear of all liens, security agreements, encumbrances, claims, demands, and charges of every kind and nature whatsoever, except as may be expressly permitted in this Agreement. The Property may be subject to certain recorded easements, conditions, covenants and restrictions, which are subject to Buyer's review and approval.

10.4 Prior to the Close of Escrow or the termination of this Agreement by Buyer in accordance with the terms herein, Seller shall not execute any option, lease, escrow instructions, sale contracts, or other agreements or instruments giving any other party any right of ownership, possession, or use of the Property or any part thereof, or further encumber the Property or any part thereof.

10.5 This Agreement has been duly executed by Seller and constitutes the valid and binding agreement of Seller enforceable against Seller in accordance with its terms.

10.6 Until the Close of Escrow, Seller shall maintain the Property and any improvements and landscaping thereon, in the same general condition as exists as of the Effective Date. Seller shall deliver the Property reasonably clean and free of all personal belongings and debris.

11. Buyer's Representations and Warranties. Buyer hereby makes the following representations, warranties and acknowledgments, and agrees that such representations, warranties and acknowledgments shall be true as of the Close of Escrow and shall survive the Close of Escrow.

11.1 Buyer, and the person executing this Agreement on behalf of Buyer, has the full right, power and authority to enter into this Agreement, to purchase the Property from Seller and to take all actions required of it by the terms of this Agreement.

11.2 All the documents executed by Buyer which are to be delivered to Seller or Escrow Agent at the Close of Escrow will be duly authorized, executed, and delivered by Buyer and will be legal, valid, and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principals relating to or limiting the rights of contracting parties generally), and will not violate any provisions of any agreement to which Buyer is a party or to which it is subject.

11.3 This Agreement has been duly executed by Buyer and constitutes the valid and binding agreement of Buyer enforceable against Buyer in accordance with its terms.

12. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be delivered in person, or sent by certified mail, postage prepaid, or by commercial overnight courier with written verification of receipt or by telecopy. A notice shall be deemed given: (a) when delivered or refused by personal delivery (as evidenced by the receipt); (b) three (3) days after deposit in the mail if sent by certified mail; (c) three (3) days after having been sent by commercial overnight courier as evidenced by the written verification of receipt; or (d) on the date of confirmation if telecopied and transmitted electronically. Notices shall be addressed as set forth below, but any addressee may change its address by written notice in accordance herewith.

Buyer:

ASP Properties, LLC

[Redacted Address]

Telephone: ( ) [Redacted]

Facsimile: ( ) [Redacted]

\_\_\_\_\_

Seller: City of Desert Hot Springs as Successor Agency to the  
former Desert Hot Springs  
Redevelopment Agency  
Attn: City Manager acting on behalf of  
Successor Agency  
65-950 Pierson Boulevard  
Desert Hot Springs, CA 92240  
Telephone: (760) 329-6411  
Facsimile: (760) 288-3129  
Email: cmaynard@cityofdhs.org

With a copy to: Quintanilla & Associates  
Attn: Jennifer Mizrahi, City Attorney acting on behalf of  
Successor Agency  
42222 Rancho Las Palmas Drive, #176  
Rancho Mirage, CA, 92270  
Telephone: (760) 883-1848  
Email: JenniferM@qalawyers.com

13. Broker's Commission. At Close of Escrow, Seller shall pay any and all real estate broker's commission for sale of the Property in accordance with Seller's listing agreement with the broker. Buyer represents and warrants that it has not retained a broker or consultant engaged on its behalf due a commission resulting from the consummation of the contemplated transaction.

14. Mutual Waiver and Release. Upon the Close of Escrow, excepting only those rights and obligations arising under this Agreement, in consideration of the covenants set forth in this Agreement, and for other good and valuable consideration, each Party, on behalf of itself and its successors, assigns and legal representatives, fully, irrevocably and unconditionally releases and discharges the other Party from all actions, causes of action, suits, debts, charges, complaints, claims, liabilities, and expenses, including attorneys' fees, of any nature whatsoever, known or unknown, suspected or unsuspected, which each Party has had, now has, or may have against the other Party, arising from or relating, either directly or indirectly, to Buyer's purchase of the Property from Seller and Seller's sale of the Property to Buyer.

The Parties are aware that facts may be discovered later that are different from and/or in addition to those that the Parties now know or believe to be true concerning the purchase and sale of the Property. The Parties acknowledge that they are familiar with California Civil Code Section 1542, which provides:

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

Upon the Close of Escrow, the Parties expressly waive all rights under Civil Code Section 1542 with respect to the purchase and sale of the Property pursuant to this Agreement

or otherwise and intend that the foregoing releases and discharges extend to all claims, including those that would otherwise be excepted by operation of Civil Code 1542 after the Close of Escrow.

15. Termination. This Agreement may be terminated by Seller upon written notice provided to Buyer in the event Close of Escrow does not occur on or before ten (10) days from the expiration of the Due Diligence Review period.

16. City Approvals. Buyer agrees to use reasonable efforts to obtain all City approvals necessary for completion of any Project.

17. General Provisions.

17.1 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter contained herein, and supersedes any prior agreement and understanding about the subject matter hereof. This Agreement may only be modified or amended by a written instrument executed by the Parties and deposited with the Escrow Agent.

17.2 Time is of the Essence. Time is of the essence of this Agreement and the Escrow described herein, notwithstanding any provision to the contrary in the Escrow Agent's general Escrow Instructions.

17.3 Headings. The subject headings of the sections and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

17.4 Counterparts and Facsimiles and Electronic Signatures. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Facsimile and electronic copies of signature pages shall be treated as original signature pages.

17.5 Successors and Assigns. Each covenant and condition contained in this Agreement shall inure to the benefit of and be binding on the parties to this Agreement and their respective heirs, executors, administrators, personal representatives, successors and assigns.

17.6 Attorneys' Fees; Costs of Litigation. If any legal action or any other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled, including the fees and costs incurred in enforcing any judgment which may be obtained in said action.

17.7 Remedies for Default. Failure by a party to perform any term, condition or covenant required of the party under this Agreement shall constitute a "default" of the offending party under this Agreement. Unless otherwise expressly stated elsewhere in this Agreement in which event the terms thereof shall govern, in the event that a default remains uncured for more than ten (10) calendar days following receipt of written notice of default from the other party, or the defaulting party fails to commence to cure, correct or remedy the alleged default within such

period, a “breach” shall be deemed to have occurred. Any failure or delay by a 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 rights or remedies associated with a default.

17.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17.9 Non-Liability of Officials and Employees of Seller. No member, official or employee of the Seller shall be personally liable to Buyer, or any of Buyer’s successors-in-interest, in the event of any default or breach by Seller or for any amount which may become due to Buyer or its successors, or on any obligations under the terms of this Agreement.

17.10 Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word “including” shall be construed as if followed by the words “without limitation,” when contextually appropriate. This Agreement shall be interpreted as though prepared jointly by the Parties.

17.11 Legal and Other Professional Advice. Each Party represents and warrants to the other Party the following: it has carefully read this Agreement, and in signing this Agreement, it does so with full knowledge of any rights which it may have; it has received independent legal advice from its respective legal counsel as to the matters set forth in this Agreement, or has knowingly chosen not to consult legal counsel regarding such matters; and it has freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or its respective agents, employees or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

17.12 Risk of Loss. Risk of loss to the Property shall be borne by Seller until possession of the Property has been delivered to Buyer. If improvements on the Property are destroyed or materially damaged prior to transfer of title through no fault of Buyer, Seller shall cause the immediate repair of said improvements unless Buyer, in its sole discretion, elects in writing to waive such requirement and elects to proceed with the purchase of the Property. Buyer shall notify Seller whether Buyer wishes to proceed with the Property purchase within ten (10) days of receipt of written notice from Seller of such circumstances. In the event that Seller elects not to repair the damaged or destroyed improvements and Buyer declines to complete the Property purchase, Seller shall be relieved of the obligation to sell the damaged or destroyed Property to Buyer as provided herein and the Parties’ obligations under this Agreement shall terminate with respect to the damaged or destroyed Property. In the event Property repairs are made, Buyer shall be obligated to close Escrow when the repairs are completed as evidenced by the sign-off of building permits, Certificates of Occupancy or other similar applicable governmental instruments.

17.13 As-Is. Buyer will be acquiring the Property in its as-is condition inclusive of all faults and defects, whether known or unknown, as may exist as of the Close of Escrow, and Buyer expressly assumes the risk that adverse physical, environmental, financial and legal conditions may not be revealed by Buyer’s inspection of the Property or review of any of Seller’s documents or materials provided to Buyer or otherwise.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the date first written above.

**SELLER:**

City of Desert Hot Springs as Successor  
Agency to the former Desert Hot Springs  
Redevelopment Agency

\_\_\_\_\_  
Charles Maynard, City Manager acting  
for the Successor Agency

**BUYER:**

ASP Properties, LLC

\_\_\_\_\_  
Scott Parker, \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk, CMC acting  
for the Successor Agency

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jennifer Mizrahi, City Attorney  
acting for the Successor Agency

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

**[TO BE INSERTED]**



**EXHIBIT "B"**

**GRANT DEED**

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

Attn: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

APN(s): 639-293-023; 639-293-024; 639-293-025;  
639-293-026; 639-293-027; 639-293-028

(Space Above this Line Reserved for Use by Recorder)

**GRANT DEED**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the City of Desert Hot Springs as successor agency to the former Desert Hot Springs Redevelopment Agency ("Grantor"), which former Desert Hot Springs Redevelopment Agency was a public body, corporate and politic, pursuant to and in accordance with the Community Redevelopment Law of the State of California, hereby grants to \_\_\_\_\_, \_\_\_\_\_ ("Grantee"), all of Grantor's right, title and interest in that real property ("Property") described on Exhibit "A," attached hereto and incorporated herein by this reference.

1. The Property is conveyed subject to the Purchase and Sale Agreement and Joint Escrow Instructions entered into between the Grantor and Grantee, dated \_\_\_\_\_, 2017 (hereinafter, the "Agreement"). The provisions of the Agreement are incorporated herein by this reference and shall be deemed to be a part hereof as if set forth at length herein.

2. Grantee herein covenants by and for itself, 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 any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the Grantee or any person claiming under or through the Grantee, 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, sublessee, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

3. All subsequent deeds, leases and contracts pertaining to the Property or any part thereof, shall contain or be subject to substantially the following nondiscrimination and nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for itself, 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 any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through the grantee, 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, sublessee, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

b. In leases: "The Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through the grantee, 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, sublessee, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

c. In contracts: “There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through the grantee, 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, sublessee, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

4. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the Agreement; provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

5. The covenants set forth in Sections 9.2 and 9.3 of the Agreement respecting the sale, lease and occupancy of the Property shall survive the termination of the other operative provisions of the Agreement and, unless otherwise specified, shall remain in effect without limitation as to time, and, the covenants set forth in Section 9.1 of the Agreement respecting the maintenance of the Property shall survive the termination of the other operative provisions of the Agreement and, unless otherwise specified, shall remain in effect for the duration of the former Desert Hot Springs Redevelopment Agency's Redevelopment Plan, as extended from time to time.

6. The covenants contained in this Grant Deed shall be binding for the benefit of the Grantor and its successors and assigns, and such covenants shall run in favor of the Grantor for the entire period during which such covenants shall be in full force and effect, without regard to whether the Grantor is or remains an owner of any land or interest herein 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, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach as provided in the Agreement or by law. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor and its successor.

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IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on its behalf by its respective officer thereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

GRANTOR:

City of Desert Hot Springs as Successor Agency to  
the former Desert Hot Springs Redevelopment Agency

By: \_\_\_\_\_  
Charles Maynard, City Manager acting  
for the Successor Agency

**EXHIBIT "A" TO GRANT DEED**  
**LEGAL DESCRIPTION OF PROPERTY**  
**[TO BE INSERTED]**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California )  
 )  
County of Riverside )

On \_\_\_\_\_, before me, \_\_\_\_\_  
Date Insert Name and Title of the Officer

Personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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 \_\_\_\_\_

Place Notary Seal Above

**EXHIBIT "C"**

**DECLARATION OF REDEVELOPMENT COVENANTS**

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

City of Desert Hot Springs as  
Successor Agency to the former  
Desert Hot Springs Redevelopment Agency  
Attn: Successor Agency Secretary  
65-950 Pierson Boulevard  
Desert Hot Springs, California 92240

APN(s): 639-293-023; 639-293-024; 639-293-025;  
639-293-026; 639-293-027; 639-293-028

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**(Exempt from recording fees pursuant to Government Code Sections 6103 and 27383)**

**DECLARATION OF REDEVELOPMENT COVENANTS**

THIS DECLARATION OF REDEVELOPMENT COVENANTS (this "Declaration") is made on \_\_\_\_\_, 2017, by \_\_\_\_\_ ("Declarant"), with respect to certain real property located in the City of Desert Hot Springs, County of Riverside, State of California, as more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

**RECITALS**

**WHEREAS**, Declarant and the City of Desert Hot Springs as Successor Agency to the former Desert Hot Springs Redevelopment Agency (the "Successor Agency") entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated \_\_\_\_\_, 2017 ("Agreement"), for purchase of the Property by Declarant from the Successor Agency; and

**WHEREAS**, the Declarant is the fee simple owner of the Property.

**NOW THEREFORE**, the Declarant declares that the Property described above is held and will be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the covenants, restrictions and limitations set forth in this Declaration, all of which are in accordance with the requirements of the Agreement. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in the Property described above or any part thereof, and to any improvements located thereon, and will inure to the benefit of the Successor Agency. Each grantee of a conveyance or purchaser under a contract or agreement of sale covering any right, title or interest in any part of the Property, by accepting a deed or a contract of sale or agreement of



purchase, accepts the document subject to, and agrees to be bound by, any and all of the restrictions, covenants and limitations set forth in this Declaration.

1. Capitalized Terms. All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them by the Agreement, unless the context clearly indicates a different meaning.

2. Redevelopment Covenants. The covenants which shall bind the Property and the improvements thereon are as follows:

(a) The ownership, retention, possession and development of the Property as provided in the Agreement shall be implemented as intended by the Agreement.

(b) There shall be no discrimination against or segregation of any person, or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, or on the basis of domestic partnership status or arrangement, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property; nor shall the Declarant 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, sublessee or vendees of the Property.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2., 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

(c) The Declarant covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property, or any part thereof, that the Declarant, such successors and such assigns shall maintain in good condition the improvements on the Property, shall keep the Property free from any accumulation of debris or waste material, subject to normal construction job-site conditions, and shall at all times maintain the Property in a neat and orderly condition consistent with good management practices and in accordance with all applicable Federal, State and local laws. In the event the Declarant, or its successors or assigns, fails to perform the maintenance as required herein, the Successor Agency shall have the right, but not the obligation, to enter the Property and undertake, such maintenance activities. In such event, Declarant or its successors or assigns shall reimburse the Successor Agency for all reasonable sums incurred by it for such maintenance activities.

(d) All of the foregoing covenants shall run with the land, and shall inure to the benefit of and be enforceable by the Successor Agency, and its successors and assigns.

(e) The covenants set forth in this Declaration shall run in favor of the Successor Agency for the entire period during which such covenants are to remain in force in accordance with the applicable provisions hereof, and shall be in effect without regard to whether the Successor Agency has at any time been, remains, or is an owner of any land or

interest therein to which these covenants relate. In the event of any breach of these covenants, the Successor Agency shall have the right to exercise all the rights and remedies available at law or in equity to enforce the curing of such breach.

(f) It is the intent hereof that subsection (b) of this section shall survive the termination of the other operative provisions of the Agreement and, unless otherwise specified, shall remain in effect without limitation as to time, and that the provisions of subsection (c) of this section shall survive the termination of the other operative provisions of the Agreement and, unless otherwise specified, shall remain in effect for the duration of the former Desert Hot Springs Redevelopment Agency's Redevelopment Plan, as extended from time to time.

3. Events of Default; Enforcement. In the event of a default in the performance or observance of any covenant, agreement or obligation as set forth in this Declaration and, if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the Successor Agency, or such longer period as may be approved by the Successor Agency in writing in its sole discretion, then the Successor Agency may declare that an event of default has occurred hereunder and may take any one or more of the following steps, at its option:

(a) By mandamus or other suit, action or proceeding at law or in equity, require the Declarant or its successors in interest to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the Successor Agency hereunder; and

(b) Take whatever other action at law or in equity that may appear necessary or desirable to enforce the obligations, covenants and agreements hereunder; and

(c) No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the Successor Agency's right against Declarant or its successors-in-interest to recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times; and

(d) Declare a default under the Agreement, entitling Successor Agency to exercise any remedies as provided under the Agreement.

4. Attorneys' Fees. In any legal proceeding begun to enforce the terms of or restrain a violation of this Declaration, the losing party must pay the attorneys' fees of the prevailing party in the amount fixed by the court in the proceeding.

5. Amendments. This Declaration may only be amended in writing by an instrument signed by the authorized representative of the Successor Agency and the then record owner or owners of the Property.

6. Severability. If any provision of this Declaration shall be invalid, inoperative or unenforceable as applied in any particular case, in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provisions in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any

one or more phrases, sentences, clauses or sections contained in this Declaration shall not affect the remaining portions of this Declaration or any part hereof.

7. Headings. The section headings are not part of this Declaration and will not affect the interpretation of any provisions hereof.

8. Time of the Essence. In each provision of this Declaration which states a specific amount of time within which the requirements thereof are to be satisfied or are to persist, time shall be deemed to be of the essence.

9. Notices. Any notice required to be given hereunder shall be given by personal delivery or by certified mail at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto:

To the Declarant: ASP Properties, LLC

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Facsimile: (\_\_\_\_) \_\_\_\_\_

If to the Successor: City of Desert Hot Springs as Successor Agency to former  
Agency Desert Hot Springs Redevelopment Agency  
Attn: City Manager acting for  
Successor Agency  
65-950 Pierson Boulevard  
Desert Hot Springs, CA 92240  
Telephone: (760) 329-6411  
Facsimile: (\_\_\_\_) \_\_\_\_-\_\_\_\_

With a copy to: Quintanilla & Associates  
Attn: Jennifer Mizrahi, City Attorney acting on  
behalf of Successor Agency

\_\_\_\_\_  
Rancho Mirage, CA, 92270  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Facsimile: (\_\_\_\_) \_\_\_\_\_

Notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received or refused. A party's address for notice may be changed by giving notice to the other party in the manner set forth above and indicating the new address for notice.

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IN WITNESS WHEREOF, Declarant has executed this Declaration on the date first written above.

“DECLARANT”

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**EXHIBIT "A"**

**TO DECLARATION OF REDEVELOPMENT COVENANTS**

**[INSERT LEGAL DESCRIPTION]**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_  
Date Insert Name and Title of the Officer

Personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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 \_\_\_\_\_