

COMPENSATION AGREEMENT
(DESERT WILLOW)

This **COMPENSATION AGREEMENT** (DESERT WILLOW) (this "Compensation Agreement"), dated as of _____, 2023, is entered into by and among the following public agencies (all of which are collectively referred to herein as the "Parties" and as the "Taxing Entities"):

City Of Palm Desert, a charter city ("**City**")
County of Riverside, a political subdivision of the State of California;
Desert Sands Unified School District;
Palm Springs Unified School District;
Desert Community College District;
Riverside County Office of Education;
Riverside County Regional Park and Open Space District;
Rancho Mirage Community Services District;
Coachella Valley Public Cemetery District;
Palm Springs Public Cemetery District;
Desert Hospital District;
Coachella Valley Mosquito and Vector Control District;
Desert Recreation and Park District;
Coachella Valley Water District; and
Coachella Valley Resource Conservation District.

RECITALS:

A. Pursuant to AB X1 26 (enacted in June 2011), as modified by the California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al., 53 Cal.4th 231(2011) (Matosantos), the Redevelopment Agency of the City of Palm Desert (the "Former Agency") was dissolved, the Successor Agency was established, and an oversight board to the Successor Agency (the "Oversight Board") was established.

B. Pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court's decision in Matosantos, on February 1, 2012, properties of the Former Agency transferred to the control of the Successor Agency to the Redevelopment Agency of the City of Palm Desert (the "Successor Agency") by operation of law, including the property described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property").

C. Pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency prepared a long-range property management plan (the "LRPMP") which addresses the disposition and use of the properties of the Former Agency, and by letter dated May 5, 2014, the Department of Finance (the "DOF") approved the Successor Agency's disposition of the properties listed in the LRPMP. The Desert Willow Property, consisting of two (2) parcels and identified as Project 12(a) in the LRPMP, is designated as an Economic Development Property.

D. The City has subsequently determined that it is in the best interests of the public and the City to develop public parking on a portion of the Property and to maintain open space on the remaining portion.

E. Health and Safety Code Section 34191.5 provides that a permissible use of former redevelopment agency property is the retention by the City for governmental use and

that an oversight board may require that the City enter into a compensation agreement, as described in Health and Safety Code Section 34180(f) with respect to properties retained by the City, including the Property, with all of the affected taxing entities, as defined in Health and Safety Code Section 34171(k) (the "Taxing Entities").

F. The Parties to this Agreement are affected Taxing Entities. The complete list of the Taxing Entities and the Applicable Tax Rate of each is shown on **Exhibit B**, each of which is attached hereto and incorporated herein by reference.

G. To promote the public interest, the Taxing Entities and the City are entering into this Compensation Agreement to provide for the City to compensate the Taxing Entities with respect to the Property in accordance with the terms of this Compensation Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE COMPENSATION, BOTH MONETARY AND NONMONETARY, AND THE COVENANTS PROVIDED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 18. Purpose. This Agreement is executed with reference to the facts set forth in the foregoing Recitals which are incorporated into this Agreement by this reference. The purpose of this Agreement is to address the allocation of certain prospective revenues among the Taxing Entities that share in the property tax base ("Tax Base") for property located within the project area (the "Project Area") formerly administered by the Former Agency.

Section 2. Compensation Arrangement.

A. Consent to Transfer. The City intends to develop and use the Property for public parking and open space. The Taxing Entities hereby irrevocably consent to the transfer of the Property by the Successor Agency to the City for the purpose of developing and maintaining public parking and open space, subject to the following agreement of the Parties as to compensation to be paid by the City for the Property.

The City agrees that in connection with the conveyance of the Property to the City, the City will pay the fair market value for the Property as established by a formal MAI appraisal. The term "Net Sale Proceeds" shall mean the gross sales price paid by the City for the Property, less actual costs for allowable expenses incurred by the Successor Agency. Pursuant to a purchase and sale agreement by and between the Successor Agency and the City, upon the close of escrow, the City will cause the Net Sale Proceeds to be remitted to the Riverside County Auditor-Controller for distribution to the Taxing Entities in accordance with each Taxing Entity's pro rata share of the Tax Base (the "Compensation Amount").

The Taxing Entities acknowledge that the Compensation Amount represents a negotiated consideration for the City's ability to retain the Property pursuant to Health and Safety Code Section 34180(f)(1) and the Taxing Entities hereby waive their respective rights to seek additional or alternative compensation for the value of the Property pursuant to that provision for the transfer to the City.

B. ERAF. The Educational Revenue Augmentation Fund ("ERAF") is entitled to a distribution of Applicable Net Sales Proceeds under this Agreement. Pursuant to instruction and direction from the DOF and the Auditor-Controller, there is no need for a separate signatory to execute this Agreement on behalf of ERAF because the ultimate

beneficiaries of any distribution of Disposition Proceeds to ERAF are themselves Taxing Entities that are signatories to this Agreement.

C. Accounting Requirements. Upon any request, the City shall deliver to the Taxing Entities an accounting of all costs, expenses and proceeds relating to the sale and transfer of the Property to the City. The City shall require as a condition of the purchase and sale agreement that complete accurate and appropriate books and records be kept of the calculation of the Net Sale Proceeds with respect to the Property. The Riverside County Auditor-Controller shall have the right, on behalf of the Taxing Entities and upon reasonable written notice to City, to audit and examine such books, records and documents and other relevant items in the possession of City, but only to the extent necessary for a proper determination of Net Sale Proceeds. The Parties acknowledge that the Riverside Countywide Oversight Board has the authority to direct the production of all relevant books, records and documents relating to the sale and transfer of the Property to the City in connection with its review and consideration of the transaction prior to acting on a request by the Successor Agency to proceed with the sale and transfer.

Section 3. Effective Date. The effective date of this Compensation Agreement (the "Effective Date") shall be the date that each of the Taxing Entities governing boards have approved this Agreement and directed each of the Taxing Entities (respectively) to execute this Agreement Promptly following the effectiveness of this Agreement, the City shall transmit notice to all the other Parties that the Agreement is effective and specifying the date the Agreement became effective (the "Effective Date"), along with a fully executed copy of the Agreement.

Section 4. Term. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as otherwise provided in this Agreement, shall expire upon the distribution by the Escrow Holder of all amounts payable to the Taxing Entities under this Agreement, if any. Notwithstanding anything to the contrary, if the events necessary to cause the Effective Date to occur have not all occurred within six (6) months from the date this Compensation Agreement is entered into, then, at the conclusion of that six (6) month period, this Compensation Agreement shall be terminated in its entirety, and shall be of no further force or effect whatsoever.

Section 5. Authorization. Each Party warrants that the individuals who have signed this Compensation Agreement have the legal power, right, and authority to make this Compensation Agreement and to bind each respective Party.

Section 6. No Personal Liability. No official, agent, or employee of any Party shall be individually or personally liable for any amount which may become due under this Compensation Agreement or on any obligations under the terms of this Compensation Agreement.

Section 7. Assignment. This Compensation Agreement shall not be assignable by any Party without the prior written consent of the other Party.

Section 8. Counterparts. This Compensation Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same Compensation Agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed

by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

Section 9. Further Assurances. The Parties agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Compensation Agreement.

Section 10. Notices. All notices and other communications shall be given or made in writing by certified mail, postage prepaid, return receipt requested, or by personal delivery. Notices shall be considered given upon (i) personal delivery, (ii) one business day following timely deposit with a nationally recognized overnight courier service, charges prepaid, or (iii) three business days after deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided in the signature page for the respective Party; provided that if a Party gives notice of a change of name or address, notices to such Party shall thereafter be given as specified in that notice.

Section 11. Amendment. This Compensation Agreement may be amended at any time, and from time to time, in writing by the Parties.

Section 12. Severability. If one or more of the covenants or agreements provided in this Compensation Agreement to be performed by one of the Parties should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Compensation Agreement.

Section 13. Construction. The Parties agree that each Party and its counsel have reviewed this Compensation 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 Compensation Agreement or any amendments or exhibits thereto. This Compensation Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties.

Section 14. Binding on Successors and Assigns. All the covenants, promises and agreements in this Compensation Agreement contained by or on behalf of the respective Parties shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 15. No Third Party Beneficiaries. This Compensation Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Compensation Agreement.

Section 16. Governing Law. This Compensation Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Riverside County, California or in the Federal District Court for the Central District of California.

Section 17. Third Party Litigation Regarding Agreement. In the event litigation is initiated by any third party attacking the validity of this Agreement or its implementation, each Party shall in good faith defend and seek to uphold the Agreement and each shall bear its own costs in connection with any such litigation.

Section 18. Indemnification. The City hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the Taxing Entities) each Taxing Entity, its council members, governing board members, directors, officers, agents, employees, consultants, contractors, and representatives (collectively, including Seller, the “**Indemnitees**”) from all suits, actions, claims, causes of action, costs, demands, judgments and liens brought by a third party and arising out of or relating to distribution of the Compensation Amount pursuant to this Agreement to any Taxing Entity other than itself, except as caused or arising out of the willful misconduct or gross negligence of any Indemnitees. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 19. Attorneys’ Fees. In any action which a Party brings to enforce its rights hereunder, the unsuccessful Party or Parties shall pay all costs incurred by the prevailing party, including reasonable attorneys’ fees.

Section 20. Entire Agreement; Amendment. This Agreement constitutes the entire and integrated agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral, relating to the subject matter of this Agreement. This Agreement may be modified only in writing and only if approved and signed by all of the Parties.

Section 21. Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

Section 22. No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

Section 23. Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

Section 24. Action or Approval. Whenever action and/or approval by the City is required under this Agreement, the City Manager or the City Manager’s designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in the City Manager’s discretion that such action or approval requires referral to the City Council for consideration.

Section 25. County Taxing Entities. The County of Riverside administers funds for the following special districts and funds, and, in addition to entering into this Agreement for itself, is authorized to, and has entered into this Agreement on behalf of the following:

- (1) Riverside County Free Library; and
- (2) Riverside County Structure Fire Protection.

Section 26. Notice of Compensation Agreement Related to Real Property. No later than fourteen (14) business days after the Effective date of this Agreement, the City shall record

in the Official Records of the County of Riverside a Notice of Compensation Agreement Related to Real Property, in the form attached hereto as **Exhibit C** and incorporated herein by reference (the "Notice of Compensation Agreement"). The Notice of Compensation Agreement shall be recorded by the City against the Property. The City shall mail or transmit electronic copies of the recorded Notice of Compensation Agreement within a reasonable time of the City's receipt of the recorded Notice of Compensation Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

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IN WITNESS WHEREOF, this **AGREEMENT** has been fully executed on behalf of the Taxing Entities, and on behalf of the CITY, and each by its duly authorized representative.

CITY:

CITY OF PALM DESERT, a charter city and municipal corporation

Date: _____, 2023

By: _____
KATHLEEN KELLY, Mayor

ATTEST:

By: _____
ANTHONY MEJIA, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP,
City Attorney

COUNTY OF RIVERSIDE, a political subdivision of the State of California
COUNTY FREE LIBRARY
COUNTY STRUCTURE FIRE PROTECTION

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

DESERT SANDS UNIFIED SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

PALM SPRINGS UNIFIED SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

DESERT COMMUNITY COLLEGE DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

RIVERSIDE COUNTY OFFICE OF EDUCATION

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

RANCHO MIRAGE COMMUNITY SERVICES DISTRICT
RANCHO MIRAGE CSD FIRE
RANCHO MIRAGE CSD LIBRARY

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

COACHELLA VALLEY PUBLIC CEMETERY

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

PALM SPRINGS PUBLIC CEMETERY

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

DESERT HOSPITAL DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

DESERT RECREATION AND PARK DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

COACHELLA VALLEY WATER DISTRICT
COACHELLA VALLEY WATER PSEUDO
COACHELLA VALLEY WATER DISTRICT IMPROVEMENT DISTRICT 80
COACHELLA VALLEY WATER DISTRICT 1 DEBT SERVICE
COACHELLA VALLEY WATER DISTRICT STORM WATER UNIT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

COACHELLA VALLEY RESOURCE CONSERVATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

By: _____

Approved as to form:

By: _____

Address for Notices:

[TBD]

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

APN: 620-400-025

All that certain real property in the City of Palm Desert, County of Riverside, State of California, described as follows:

Lot 2 of Tract Map No. 29528, in the City of Palm Desert, County of Riverside, State of California, as shown by map on file in Book 311 of maps, Pages 40 through 42, inclusive, Official Records of Riverside County.

EXHIBIT B

APPLICABLE TAX RATES FOR THE PROPERTY

| Taxing Entity | Allocation Percentages |
|--|------------------------|
| COUNTY GENERAL FUND | 0.1339389 |
| COUNTY FREE LIBRARY | 0.0151323 |
| COUNTY STRUCTURE FIRE PROTECTION | 0.0618646 |
| CITY OF PALM DESERT | 0.0281726 |
| DESERT SANDS UNIFIED SCHOOL – PTR | 0.3436072 |
| PALM SPRINGS UNIFIED SCHOOL – PTR | 0.0225100 |
| DESERT COMMUNITY COLLEGE – PTR | 0.0796349 |
| RIVERSIDE CO OFFICE OF EDUCATION – PTR | 0.0433255 |
| RIV. CO. REGIONAL PARK & OPEN SPACE | 0.0034427 |
| RANCHO MIRAGE CSD FIRE | 0.0001482 |
| RANCHO MIRAGE CSD LIBRARY | 0.0000617 |
| COACHELLA VALLEY PUBLIC CEMETERY | 0.0020329 |
| PALM SPRINGS PUBLIC CEMETERY | 0.0001630 |
| DESERT HOSPITAL | 0.0122432 |
| COACHELLA VALLEY MOSQ & VEC CONTROL | 0.0103422 |
| COACHELLA VALLEY REC AND PARK | 0.0104650 |
| COACHELLA VALLEY WATER DISTRICT | 0.0289918 |
| COACHELLA VALLEY WATER PSEUDO | 0.0000221 |
| CVWD IMPROVEMENT DISTRICT 80 | 0.0076409 |
| COACHELLA VALLEY RESOURCE | 0.0002472 |
| CVWD IMPROVEMENT DISTRICT 1 DEBT SERV | 0.0000050 |
| CVWD STORM WATER UNIT | 0.0259818 |
| EDUCATION REVENUE AUGMENTATION FUND | 0.1700264 |
| Grand Total ALL Taxing | 1.0000000 |

EXHIBIT C

**FORM OF NOTICE OF COMPENSATION AGREEMENT
RELATED TO REAL PROPERTY**

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City of Palm Desert
73510 Fred Waring Drive
Palm Desert, CA 92260

Attn: City Manager

NO FEE FOR RECORDING PURSUANT TO
GOVERNMENT CODE SECTIONS 6103 AND 27383

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

NOTICE OF COMPENSATION AGREEMENT

RELATED TO REAL PROPERTY

(DESERT WILLOW PROPERTY)

NOTICE IS HEREBY GIVEN, that the City of Palm Desert (the "City"), County of Riverside, a political subdivision of the State of California, with respect to the County General Fund, the County Free Library, and the County Structure Fire Protection; Desert Sands Unified School District; Palm Springs Unified School District; Desert Community College District; Riverside County Office of Education; Riverside County Regional Park and Open Space District; Rancho Mirage Community Services District; Coachella Valley Public Cemetery District; Palm Springs Public Cemetery District; Desert Hospital District; Coachella Valley Mosquito and Vector Control District; Coachella Valley Recreation and Park District; Coachella Valley Water District; and Coachella Valley Resource Conservation District (each a "Taxing Entity" and collectively, the "Taxing Entities") entered into that certain Compensation Agreement, dated _____, 2023 (the "Compensation Agreement"), with reference to that certain real property located in the City located at _____, at _____, assessor's parcel number _____, and further described in Exhibit A incorporated herein by reference (the "Property").

The City and the Taxing Entities have entered into the Compensation Agreement, pursuant to Health and Safety Code Section 34170 et seq., providing for the payment of Net Sales Proceeds (as defined in the Compensation Agreement) upon the City's acquisition of the Property, under specified conditions.

The Compensation Agreement includes certain obligations related to the Property including, without limitation and as further described in the Compensation Agreement, a requirement that upon request, the City provide the Taxing Entities and the County Auditor-Controller an accounting of all costs, expenses and proceeds relating to the sale and transfer of the Property to the City.

A complete copy of the Compensation Agreement is maintained in the Office of the City Clerk, and is available to review at 73510 Fred Waring Drive, Palm Desert, CA 92260 between 9 a.m. and 5 p.m.

In the event of any conflict between this Notice of Compensation Agreement Related to Property (the "Notice") and the Compensation Agreement, the terms of the Compensation Agreement shall prevail.

This Notice is being recorded and filed by the Owner of the Property, and shall be indexed against the Owner's interest in the Property.

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IN WITNESS WHEREOF, this **AGREEMENT** has been fully executed on behalf of the Taxing Entities, and on behalf of the CITY, and each by its duly authorized representative.

CITY:

CITY OF PALM DESERT, a charter city and municipal corporation

Date: _____, 2023

By: _____
KATHLEEN KELLY, Mayor

ATTEST:

By: _____
ANTHONY MEJIA, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
ROBERT HARGREAVES
City Attorney

[SIGNATURES MUST BE NOTARIZED]

