

DOC # 2011-0153660

04/07/2011 08:54A Fee:NC

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County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

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Title of Document

Modification No. 7 to Disposition and Development  
Agreement

TRA: \_\_\_\_\_

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THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(\$3:00 Additional Recording Fee Applies)

MODIFICATION NO. 7

TO

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS MODIFICATION NO. 7 TO DISPOSITION AND DEVELOPMENT AGREEMENT (“Modification No. 7”) is (a) entered into by and between the Indian Wells Redevelopment Agency, a public body, corporate and politic (the AAgency@), and Jerson Investments, LLC, an Illinois limited liability company (AJerson”), and (b) consented to by Miles Lodge, L.L.C., a California limited liability company (“Miles Lodge”), Miles Accent Homes, L.L.C., a California limited liability company (“Miles Accent Homes”), Miles Crossing Retail, L.L.C., a California limited liability company (“Miles Crossing Retail”), Miles Crossing Retail 2, L.L.C., a California limited liability company (“Miles Crossing Retail 2”). (The effective date of this Modification No. 7 shall be the date it is executed by the Agency, provided that all other parties have previously executed the document.)

RECITALS

A. DDA and Modifications. On May 6, 2004, the Agency and Jerson entered into a Disposition and Development Agreement (the “Agreement” or the “DDA”) relating to certain real property located in the City of Indian Wells. On or about August 17, 2004, the Agency and Jerson entered into Proposed Modification to the Agreement (“Modification No. 1”). On or about October 6, 2004, the Agency and the Jerson entered into Proposed Modification No. 2 to the Agreement (“Modification No. 2”). On or about July 21, 2005, the Agency and Jerson entered into Modification No. 3 to Disposition and Development Agreement (“Modification No. 3”). On or about May 9, 2006, the Agency and Jerson entered into Modification No. 4 to Disposition and Development Agreement (“Modification No. 4”). On or about June 25, 2007, the Agency and Jerson entered into Modification No. 5 to Disposition and Development Agreement (“Modification No. 5”). On or about January 29, 2008, the Agency and Jerson entered into Modification No. 6 to Disposition and Development Agreement (“Modification No. 6”), and, concurrently therewith, Miles Lodge, Miles Crossing Retail, and Miles Accent Homes consented to said Modification No. 6 and assumed and became responsible to perform certain obligations as set forth therein. The DDA and Modification Nos. 1 through 6 are incorporated herein by reference as though set forth in full, and, unless otherwise indicated, all defined terms in those documents shall have the same meanings in this Modification No. 7.

B. Current Ownership of DDA Properties. Subsequent to execution of Modification No. 6, the following transactions and/or arrangements were consummated and/or agreed to:



1. Condo-Hotel Property. The real property described on *Exhibit "A"* attached ("Condo-Hotel Property") was conveyed by the Agency to Miles Lodge, and said entity is currently the owner of said property.

2. Residential Property. The real property described on *Exhibit "B"* attached ("Residential Property") was not conveyed to Miles Accent Homes, and the Agency is currently the owner of said property.

3. Phase 1 Commercial Property. The real property described on *Exhibit "C"* attached ("Phase 1 Commercial Property") was conveyed by the Agency to Miles Crossing Retail, and said entity is currently the owner of said property.

4. Phase 2 Commercial Property. The real property described on *Exhibit "D"* attached ("Phase 2 Commercial Property") was conveyed by the Agency to Miles Crossing Retail 2, and said entity is currently the owner of said property.

C. Further Modification of DDA. By this Modification No. 7, the parties desire to modify the DDA (as previously modified), as provided herein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Inapplicability of Condo-Hotel Provisions. On the basis that agreements with respect to the Condo-Hotel Property (and Miles Lodge) will be covered either by (i) a new Disposition and Development Agreement ("New DDA") to be executed concurrently herewith by the Agency and Miles Lodge, or (ii) a new Development Agreement ("New DA") to be executed concurrently herewith by the City of Indian Wells ("City") and Miles Lodge, and, upon the effectiveness of both the New DDA and the New DA, all references to and provisions in the DDA (as modified) regarding the Condo-Hotel Property (and Miles Lodge) are hereby made inapplicable and of no further force or effect. Inapplicable provisions shall include, without limitation: Section 4, entitled "*Condo-Hotel Agreements*", as set forth in Modification No. 3; Section 1, entitled "*Modification of Condo-Hotel Agreements*", as set forth in Modification No. 4; Section 9, entitled "*Covenant Against Use of Condo-Hotel Units as Permanent Residences*", as set forth in Modification No. 4; Section 1, entitled "*Further Modification of Condo-Hotel Agreements*", as set forth in Modification No. 5; Section 7.A(ii), entitled "*Repurchase Agreement*", as set forth in Modification No. 5; Section 1, entitled "*Escrow Closings – Repurchase of Condo-Hotel Property*", as set forth in Modification No. 6; provisions in Section 3, entitled "*Bifurcation of Rights and Obligations*" relating to the Condo-Hotel Property (and Miles Lodge), as set forth in Modification No. 6; and Attachment No. 8B, entitled "*Schedule of Performance for Planning Area 2 – Condo Hotel Property*", attached to Modification No. 6.

2. Effect of Modification No. 7. This Modification No. 7 shall amend and supercede the original DDA (and Modification Nos. 1, 2, 3, 4, 5 and 6) to the extent provided herein; provided,

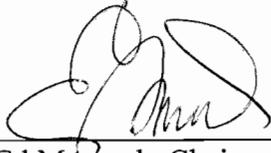


however, the original DDA (as modified by Modifications Nos. 1, 2, 3, 4, 5 and 6) shall otherwise remain in full force and effect as originally written.

IN WITNESS WHEREOF, the parties have signed this Modification No. 7 and made it effective when first referenced above.

INDIAN WELLS REDEVELOPMENT AGENCY

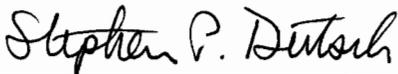
Dated: 12-20, ~~2008~~ <sup>2010</sup>

By:   
Ed Monarch, Chairperson

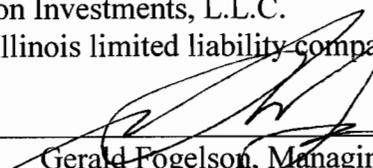
ATTEST:

  
Greg Johnson, Agency Secretary *Chief Deputy*

APPROVED AS TO FORM:

  
Stephen P. Deitsch, Agency Counsel

Dated: 9 DEC <sup>2010</sup>, ~~2008~~

Jerson Investments, L.L.C.  
An Illinois limited liability company  
By:   
Gerald Fogelson, Managing Member



CONSENT AND AGREEMENT:

By signature below, **Miles Lodge, L.L.C.**, hereby consents and agrees to the terms and provisions of Modification No. 7.

Dated: 9 DEC, 2010

**Miles Lodge, L.L.C.**

A California limited liability company

By: \_\_\_\_\_

Gerald Fogelson,  
Managing Member

By signature below, **Miles Accent Homes, L.L.C.**, hereby consents and agrees to the terms and provisions of Modification No. 7.

Dated: 9 DEC, 2010

**Miles Accent Homes, L.L.C.**

A California limited liability company

By: \_\_\_\_\_

Gerald Fogelson,  
Managing Member

By signature below, **Miles Crossing Retail, L.L.C.**, hereby consents and agrees to the terms and provisions of Modification No. 7.

Dated: 9 DEC, 2010

**Miles Crossing Retail, L.L.C.**

A California limited liability company

By: \_\_\_\_\_

Gerald Fogelson,  
Managing Member

By signature below, **Miles Crossing Retail 2, L.L.C.**, hereby consents and agrees to the terms and provisions of Modification No. 7.

Dated: 9 DEC, 2010

**Miles Crossing Retail 2, L.L.C.**

A California limited liability company

By: \_\_\_\_\_

Gerald Fogelson,  
Managing Member

NOTARIES ARE ATTACHED.



**ACKNOWLEDGMENT**

State of California  
County of           Riverside          )

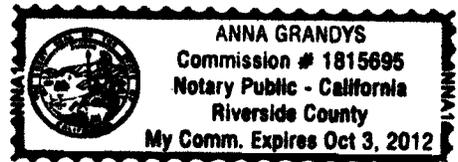
On December 20, 2010 before me, Anna Grandys, Notary Public  
(insert name and title of the officer)

personally appeared Ed Monarch, RDA Chairman  
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  (Seal)



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF RIVERSIDE )

On 9 DEC 2010 before me, John A Tribbett, NOTARY PUBLIC, a notary public, personally appeared **Gerald Fogelson**, who proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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.

*John A Tribbett* NOTARY PUBLIC  
SIGNATURE OF NOTARY

