



## INDIAN WELLS TENNIS GARDEN AGREEMENTS – VALUATION

NOVEMBER 21, 2013



**Since 1998, the City of Indian Wells and the Indian Wells Tennis Garden,** a premier year-round tennis facility, have endeavored to create an indelible brand recognized worldwide for the City and the internationally renowned tennis tournament, now known as the BNP Paribas Open. This has been a collaborative effort since the beginning, with the City investing in the growth of the tournament and commitments from Raymond Moore (now CEO of the Tennis Garden and tournament) and his former partner at PM Sports, Charlie Pasarell, to keep this prestigious professional tournament in the United States and, more specifically, in Indian Wells. Over the course of this symbiotic relationship many agreements were entered into by both entities. During certain years the City has experienced significant growth and undertaken projects to enhance the tennis complex and its surrounding areas. Current Tennis Garden owner Larry Ellison has brought a resurgence of development and excitement to the Tennis Garden and BNP Paribas Open by building an additional stadium and implementing several other enhancements.

By virtue of this long-standing partnership, City Staff has analyzed all existing agreements between the two parties, with the ultimate goal of this analysis to understand the overall value that the City of Indian Wells and the Indian Wells Tennis Garden receive either annualized or over the life of the contract.

The BNP Paribas Open is perhaps the most important event with a significant marketing, tourism and financial impact for the entire Coachella Valley. This extends to hotels and resorts, restaurants, retail operations, amenities and attractions. The City has received many reports from area businesses that the two weeks of the BNP Paribas Open bring the most customers and strongest revenues of the year. In fact, as of 2011, the BNP Paribas Open's estimated total gross economic impact now exceeds \$289 million.



# INDIAN WELLS

CALIFORNIA

Nine agreements and amendments to those agreements reflect the needs and issues of both parties over the years. City Staff has thoroughly analyzed these documents for this Indian Wells Tennis Garden Agreement Valuation Report.

The attached Summary of Valuations (Attachment 1) delineating the annual benefit to the City is approximately \$5,044,220 while the annualized cost is roughly \$351,000. Over the life of the contracts, the City will have realized approximately \$116,362,297 in revenue with an investment of \$29,820,000. City Staff has placed a value on each cost and benefit included in the various agreements. In an effort to include all of the costs and benefits, City Staff added items that result from the agreements (e.g., potential revenue losses from parking on City-owned property) and benefits received by the parties not covered by the agreement (e.g., City newsletter promotions). The Analysis of the agreements (Attachment 2) supports the summary of valuations.

City Staff considers this to be a full analysis of the various contracts and an impartial reporting of valuations. Should review of this material reveal additional costs or benefits, Staff is prepared to update the analysis.

# TENNIS GARDEN AGREEMENTS VALUATIONS

<b>City Benefits and Costs</b>				
	<b>Annualized Revenue</b>	<b>Annualized Cost</b>	<b>Over Life of Contract Rev.</b>	<b>Over Life of Contract Cost</b>
<b>Hard Cash</b>				
Naming Rights (1999)				2,500,000*
Naming Rights (2013)		250,000		2,500,000*
Naming Rights (2023)				2,500,000*
Sponsorships (2002-2006)				2,600,000
Admission Tax (2001-2013) (actuals)			11,777,891	
Admission Tax (2014-2026) (estimates)	2,000,000		26,000,000	
TOT (2006-2012 average)	220,000		4,400,000	
Warner Trail Parking Lot	1		20	
<b>Total</b>	<b>2,220,001</b>	<b>250,000</b>	<b>42,177,911</b>	<b>10,100,000</b>

\* Current cost only includes annualized naming rights cost; 1999 naming rights is paid off, and 2023 naming rights is a potential future obligation; Separate sponsorship fee ended in 2006; The 2007 through 2026 sponsorship fee included in 2006 property trade and is now a credit

# TENNIS GARDEN AGREEMENTS VALUATIONS

	Annualized Value	Annualized Cost	Over Life of Contract Value	Over Life of Contract Cost
<b>Soft Cash</b>				
Value of Suite #212 (includes credentials)	400,000		8,000,000	
Food Credit	75,000		1,500,000	
Value of Suite #332	60,000		1,200,000	
1,650 Resident Day Loge Seats	107,250		2,145,000	
1,850 Resident Day (Night) Loge Seats	46,250		925,000	
875 Resident Day Parking Passes	13,125		262,500	
16 Stadium Box Seats	28,000		560,000	
16 Loge Seats	11,200		224,000	
16 Grandstand Seats	7,200		144,000	
Valet Parking Passes	18,000		360,000	
General Parking Passes	9,000		180,000	
Players Party at IW Club	55,000		1,100,000	
4 days of Use of Facility Annually	40,000		800,000	
<b>Total</b>	<b>870,025</b>		<b>17,400,500</b>	

# TENNIS GARDEN AGREEMENTS VALUATIONS

	Annualized Value	Annualized Cost	Over Life of Contract Value	Over Life of Contract Cost
<b>Brand Recognition Value</b>				
Tennis Garden name	700,000		14,000,000	
Court & Course side signs	627,677		12,553,546	
Measured media buys	542,207		10,844,140	
Commercials during Tournament	182,700	45,500	3,654,000	910,000
On-site video screen exposure	136,405		2,728,100	
On-site sign/display (box level/exhibition area)	79,901		1,598,020	
Digital media exposure/promotions	22,214		444,280	
Display Booth	15,000		300,000	
1 E-blast using database	11,290		225,800	
3 Full page ads in program	7,500		150,000	
Suite(s) Hospitality		18,000		360,000
Digital Media Marketing by City		25,000		500,000
City Newsletter promotional(s)		12,500		250,000
Half page ad in Daily Draw Sheet	1,050		21,000	
Welcome letter	1,000		20,000	
<b>Sub-Total</b>	<b>2,326,944</b>	<b>101,000</b>	<b>46,538,886</b>	<b>2,020,000</b>

	Annualized Revenue	Annualized Cost	Over Life of Contract Rev.	Over Life of Contract Cost
<b>Property</b>				
2006 Property trade (Stop-n-Sock)			15,000,000	15,000,000
Warner Trail parking lot			2,700,000	2,700,000
			17,700,000	17,700,000
<b>Sub-Total</b>	<b>5,416,970</b>	<b>351,000</b>	<b>123,817,297</b>	<b>29,820,000</b>

# TENNIS GARDEN AGREEMENTS VALUATIONS

<b>Lost City Parking Revenues due to Active Agreements</b>				
<b>Lost City Revenues</b>	<b>Annualized Value</b>	<b>Annualized Cost</b>	<b>Over Life of Contract Value</b>	<b>Over Life of Contract Cost</b>
Warner Trail parking lot	(252,000)		(5,040,000)	
Stop-n-Sock property	(120,750)		(2,415,000)	
Well			(500,000)	
<b>Sub-Total</b>	<b>(372,750)</b>		<b>(7,955,000)</b>	
*net of parking, lighting, and fencing costs				

<b>GRAND TOTAL</b>				
	<b>Annualized Revenue</b>	<b>Annualized Cost</b>	<b>Over Life of Contract Rev.</b>	<b>Over Life of Contract Cost</b>
<b>Net of Tennis Gardens Benefits and Costs</b>	<b>5,004,220</b>	<b>351,000</b>	<b>115,862,297</b>	<b>29,820,000</b>

# NAMING RIGHTS

## October 29, 1998 Sponsorship Agreement with all 9 amendments

**1. Sponsorship:** City shall be a sponsor of tennis facility and tournament  
“Sponsorship fee” changed to “Naming Rights Fee” and “Tennis Entities” changed to “Desert Champions” (Third amendment)

### **2. Term of Agreement:**

**2.1** Initial Term: Conclude on **December 31, 2012 unless terminated sooner in accordance with the terms hereof (Second amendment)**

**2.2** Extension of Term:

- (a) Automatic 10 year period extension unless tennis entities notified by city in writing before (Second amendment) (Nov 15, 11 letter) (Feb 17, 12 letter) (Feb 27, 12 letter) June 30, 2012 (April 2, 12 letter) that city elects not to extend term; Automatic 10 year period extension unless tennis entities notified by city in writing before January 1, 2022 (Second amendment) that city elects not to extend term

**City gives courtesy notice accepting automatic renewal for first extension term (June 22, 2012 letter)**

- (b) City may exercise its rights in respect to second extension term only if it's exercised its rights in respect to first extension term

**3. Naming Rights Fee:** Inducement to construct/operate one or more hotels on land, Naming Rights fee will increase for first and second extension terms. Increases based on aggregate number of hotel rooms.

**3.1** Payments:

- (a) Initial term - \$2,500,000;
- (b) First extension term - \$2,500,000; increase of \$250,000 if land annexed by City and if there are 350 qualifying hotel rooms
- (c) Second extension term - \$2,500,000; increase of \$250,000 if land annexed by City and if there are 350 qualifying hotel rooms; increase another \$250,000 if land annexed by City and if there are 500 qualifying hotel rooms
- (d) Calculation - Multiplying scheduled increase applicable to that number of qualifying hotel rooms by a fraction whose numerator is the number of tournaments remaining to be conducted during that extension term and whose denominator is 10. Example:  $\$250,000 \times 8/10 = \$200,000$
- (e) Naming Rights fee paid in US dollars directly to tennis entities.

# NAMING RIGHTS

- (f) For first and second extension term, naming rights fee shall be subject to the amount of admission tax received by City for events during the last year of the immediately preceding term. For each extension term
- (i) if City received admission tax equal or greater than \$1,000,000 (targeted admission tax) during the last year of the immediately preceding term, no adjustments shall be made as provided in section 3.1.(b) and (c)
  - (ii) if City received admission tax less than targeted admission tax during the last year of the immediately preceding term, the naming rights fee shall be adjusted accordingly and calculated based upon the percentage of targeted admission tax received by City.

Example: First extension term, if City received 70% of targeted admission tax during last year of initial term there is no increase to the base naming rights fee of \$2,500,000 in respect of qualifying hotel rooms, City shall pay a naming rights fee of \$1,750,000 ( $\$2,500,000 \times 70\%$ ) For second extension term, if City receives 80% of targeted admission tax during last year of first extension term and there are 500 qualifying hotel rooms, City shall pay a naming rights fee of \$2,400,000 ( $\$2,500,000 + 500,000 \times 80\%$ ) (Third amendment)

## 4. Sponsorship Benefits:

- 4.1** Tennis Facility Naming Rights: City will have exclusive naming rights to the tennis facility, including the main tennis stadium
- (a) Tennis entities shall install all signs
  - (b) Promotional materials shall refer to the stadium or tennis facility solely by using the city names (“Indian Wells Tennis Garden”)
  - (c) Future users/tenants refer to stadium or tennis facility solely by the city names
  - (d) All forms of media shall refer to tennis facility or the stadium solely by the city names
  - (e) Tennis entities shall install directional and information signs (public right-of-way, streets, highways, etc) shall refer solely by reference to the city names
- 4.2** Signage for Tennis Facility and Stadium:
- (a) Location and number of city name signs for tennis facility and stadium shall be subject to joint approval by City and tennis entities
  - (b) City name signs at:
    - (i) Entrances to the stadium
    - (ii) Public entrances to tennis facility

# NAMING RIGHTS

- (iii) Other locations within the stadium
- (iv) Within the Press Rooms at tennis facility
- (v) Additional signs to assure television and spectator coverage consistent with this agreement & display needs of tournament sponsors
- (c) On or before July 1, 1999, City and tennis entities mutually agree on city name signage plan.
- (d) Prior to install of any signage covered by this agreement, tennis entities shall present full color renderings to City for its written approval, which shall not be unreasonably delayed
- (e) Tennis entities shall maintain all such signs in first class condition
- (f) City shall reimburse tennis entities up to \$25,000 for installing city name signs

## **4.3** Tournament: City will receive non-exclusive benefits commencing with 2000 tournament

- (a) Name recognition on all advertising and promotional material
- (b) Name recognition within the stadium on courtside banner at location/(s) designated by tennis entities
- (c) Receive 1 panel on official ticket brochure to promote city
- (d) Standard promotion booth in village
- (e) In stadium promotional announcements at times designated by tennis entities
- (f) Cooperate with City in development of international marketing program (costs City's sole responsibility)
- (g) Grant city privilege of promoting Indian Wells, Golf Resort and hotels on tournament website; minimum of 10MB up to 250 megabytes of data space granted to city; city pay development and production costs; **(Second amendment)**
- (h) City entitled to exclusive use of Suite 212, which includes 54 passes and 12 VIP parking passes for all events held within stadium during term of this agreement, except for events not open to the public (Second amendment)**
- (i) City additional insured on general liability insurance - \$3 million per occurrence (Second amendment)**

## **4.4** City Usage of Tennis Facility: City may utilized tennis facility for city sponsored events up to 4 days each calendar year without payment of any facility rental fee (subject to availability); charges to city for services (ticket sales, cleanup, parking, etc) will be at tennis entities' cost; partial day's use will count as full day's usage and unused days may not be carried over to following calendar

# NAMING RIGHTS

year; with respect to last calendar year agreement in effect, city's rights under this section will survive expiration or termination of this agreement.

**4.5** Tennis Memberships: Once tennis club is established and as long as this agreement in effect, residents and employees of city will received a 50% discount off prevailing initiation fee and 25% discount off prevailing monthly dues.

**4.6** Indian Wells Resident's Programs: For as long as this agreement in effect, tennis entities will annually offer Indian Wells residents special tennis programs and clinics free of charge.

**5. Tournament Logo and City Name:** City has nonexclusive license to use the tournament logo, right to identify itself as "official sponsor" of tennis facility and of tournament in all city advertising and promotional materials.

**6. Tennis Facility Logo:** Tennis entities shall have exclusive right to create, subject to city's prior approval of the design and content, one or more logos that incorporate the name of tennis facility;

**7. Television Coverage:** City may purchase advertising time on tournament's domestic and international broadcasts directly from broadcaster(s) on space available basis.

**8. Redesignation of Tournament:** Tournament currently receives sanctions from ATP and WTA. Parties agree that agreement will remain in effect during its term so long a tournament is conducted as a sanctioned event of ATP and WTA or is conducted as independent event combining men and women tennis professionals which is recognized a a major international event of stature comparable to 1998 tournament. Should tournament fall below the above high standard, City at its option may terminate agreement; city shall be reimbursed a pro rata share of Naming Rights sponsorship fee.

**8.1** Warranties: Tennis entities represent and warrant that they:

- (a) Own the right to name the tennis facility and stadium
- (b) Secured binding options to acquire tennis facility land
- (c) By December 31, 1998 a signed construction contract to build tennis facility
- (d) Own separately the current sanctions for the tournament

# NAMING RIGHTS

## 9. Force Majeure:

- 9.1** Construction Delay: Apply to 2000 tournament as long as its conducted in stadium regardless whether tennis facility is complete at that time; If stadium not used for 2000 tournament, City's sponsorship will apply with first tournament at stadium and all times and time periods will be extended accordingly; To extent reasonably practicable, tennis entities will provide to city during 2000 tournament and subsequent tournaments until first tournament in stadium, the benefits specified in sections 4.3 and 4.4.
- 9.2** Non-Staging of Tournament: Parties agree if 2000 tournament is not staged at tennis facility due to circumstances beyond reasonable control, all terms and conditions of agreement shall remain in full force and effect; if for any reason one or more tournaments are not staged at tennis facility, all times and timer periods will be extended until such time a 10 tournaments have been conducted.
- 9.3** Force majeure provision in sections 9.1 and 9.2 are subject to city's termination rights under sections 11.1 (a), (b), (c), (d), (e), (f) and (i).

## 10. Notices: Listing of parties

## 11. Termination:

- 11.1** Termination by City: City may terminate agreement upon occurrence of any of the following events:
- (a) Tennis facility land not acquired and construction of tennis facility does not commence by December 31, 1998; construction commencement is deemed to have occurred if ground has been broken
  - (b) Tennis entities do not certify to city that any or all financing for construction has been secured for tennis facility by **March 31, 1999 (First amendment)**
  - (c) Construction is not diligently prosecuted to completion
  - (d) Foundation for stadium not completed by October 1, 1999
  - (e) Architect supervising tennis facility construction does not certify 50% completion of stadium by November 1, 1999
  - (f) 2000 tournament is not held at tennis facility due to construction delays or fault of tennis entities
  - (g) Tournament does not maintain the requisite stature as specified in section 8
  - (h) Tournament is canceled and not replaced with event satisfying the requirements of section 8

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- (i) Tennis facility is damaged and unusable and is not rebuilt for use within the scheduled date for second tournament after the damage occurs
- (j) Tournament is not held in stadium for 2 consecutive years after the 2000 tournament
- (k) After first tournament at tennis facility, the tournament is moved to another location for any reason other than damage and unusable
- (l) Tennis entities do not provide to city deed of trust on tennis facility land by **March 31, 1999 (First amendment)**
- (m) Tennis entities default under any material provision of agreement and default is not cured within 60 days after written notice of default is give; City termination will be effective 30 days after it gives written notice of termination to tennis entities.

**11.2** Termination by Tennis Entities: Tennis entities may terminate upon the occurrence of any of the following events:

- (a) City fails to pay Naming Rights fee
- (b) City defaults under other material provision & default is not cured within 60 days after written notice of default is give; Tennis entities termination will be effective 30 days after it gives written notice of termination to City.

**11.3** Damages: City terminates agreement, Naming Rights fee be prorated based on the number of tournaments completed during the term in which termination occurs and the balance will be repaid to City with interest within 60 days of termination. Interest shall be computed on balance at the published prime rate of Bank of America. Interest shall be paid for the period beginning on the date the applicable Naming Rights fee is paid by City and ending on the date the balance is fully repaid. Tennis entities relieved of obligation to pay interest if terminated by City pursuant to section 8 or section 11.1(g), (h) and (i) or any reason beyond the control of tennis entities. Balance to be repaid be calculated by multiplying the amount of Naming Rights fee paid by a fraction whose numerator is the remainder of 10 minus the number of tournaments completed and whose denominator is 10.

Example -  $\$2,500,000 \times (10-5)/10 = \$1,250,000$

**11.4** Equitable Relief: Nothing herein prevent City from seeking specific performance and/or other equitable relief arising out of tournament held as tennis facility should there be a material breach or prospective material breach by tennis entities of rights and benefits granted to City under sections 4.1, 4.2, 4.3, 4.4, or 5.

# NAMING RIGHTS

**12.Waiver:** Failure of any party at any time to demand strict performance by the other of terms shall not be construed as continuing waiver or relinquishment thereof, and any party may at any time demand strict and complete performance by the other of said terms.

**12.5** Indemnification: Tennis entities shall defend, indemnify and hold City harmless against any and all claims, damages, losses, causes of action, costs and expenses, including reasonable attorney's fee and costs, arising or resulting from:

- (a) Any injuries to persons or damages to property arising out of use of or attendance at any event at tennis facility, including any tennis tournaments, games or any special events, except as to any such claims, damages, losses, causes of action, costs or expenses to the extent arising out of the conduct of City, its officers, employees, guests or agents.

## **13.Assignment:**

**13.1** Assignment by City: City may not grant sublicense or assign, transfer, alienate, encumber or hypothecate any of its rights or obligations without prior written consent of Desert Champions. **Notwithstanding any provision herein to contrary, City and Desert Champions may mutually agree to sell the naming rights to the Tennis Facility, including the stadium. (Third amendment)**

**13.2** Assignment by PM Sports, IMC and Garden of Champions: **PM Sports, IMC & Garden of Champions assign rights and obligations to Desert Champions (Sept 20, 2001 Assignment & Assumption Agreement)**

- (a) Initial Assignment – PM Sports, IMC and Garden of Champions at any time may collectively assign their rights and obligations to Desert Champions (Initial assignment). Upon City's receipt of written notice of
  - (i) the initial assignment
  - (ii) Desert Champions' written assumption of rights and obligations of PM Sports, IMC and Garden of Champions; only liability to City arising shall be as provided in section 13.2(c) and the Repayment Guaranty and Agreement of even dates among tennis entities and City.
- (b) Other Assignments – In addition to initial assignment, PM Sports, IMC, Garden of Champions or Desert Champions may at any time sell, assign or transfer all or a part of their respective right, title and interest in and to the tournament and/or to tennis facility to any person or entity subject to the following conditions:

## NAMING RIGHTS

- (i) Agreement continues in full force and effect after such sale, assignment or transfer; and
- (ii) Transferee assumes in writing the obligations of PM Sports, IMC and Garden of Champions or Desert Champions, as applicable; and
- (iii) City is given written notice of transferee's assumption of obligations of PM Sports, IMC and Garden of Champions or Desert Champions, as applicable; and
- (iv) Transferee has comparable financial resources and comparable tennis tournament management skills; and
- (v) PM Sports, IMC and Garden of Champions or Desert Champions, as applicable, are not in default under this agreement.

If these conditions are satisfied, PM Sports, IMC and Garden of Champions or Desert Champions, as applicable, only liability to City arising shall be as provided in section 13.2(c) and the Repayment Guaranty.

- (c) Repayment Guaranty – **(Third amendment)** As additional security for repayment obligations, the tennis facility land will be encumbered by a deed of trust in favor of City, as beneficiary, in a form mutually agreeable, securing the repayment obligations. The city deed of trust will hold a second priority position on tennis facility land, junior only to a deed(s) of trust in favor of those providing financing for the acquisition of the tennis facility land and/or construction of tennis facility. City will reconvey the City deed of trust to the trustor thereunder upon expiration of the initial term.

# SPONSORSHIP OF TOURNAMENT

## Agreement #5 [2007 to 2026 Tournaments, BNP Paribas Open]

### **PREMIER SPONSOR** – and land purchasing agreement

Sponsorship right – (city promotion) advertising of City as resort destination including IWGR, Hyatt, IWRH, Miramonte & Renaissance

Exclusive Use of Suite #332 for each tournament session

- 34 seats

- 46 passes for each session

- Catering credit \$75,000

16 four-seat box seat tickets in Stadium Court for each session

16 Loge seat tickets in Stadium Court for each session

16 Grandstand seat tickets in Stadium Court for each session

6 VIP parking passes for each session

50 General parking passes for each session

24 Valet parking passes for each session

'City of Indian Wells Day' during first week of each Tournament

- 4 free loge seat tickets & 1 parking pass to residents for one session (subject to availability, first come first served)

Exclusive use of Suite #332 for all other events held within main stadium that are open to public

- 34 passes for event

- 6 VIP parking passes

- 12 General parking passes

- 12 Additional passes for suite (commercially reasonable best efforts)

- Catering costs City responsible

Tournament sponsor credentials mutually agreed upon number

1 Side wall signs at W and E end of Stadium 2 and 3 [W1 and E8]

1 Sign position within the confines of upper Stadium Court as determined by Desert Champions

City usage of any unsold signs at Stadium Court [NW2, NE2, SW2, SE2]

3 public address announcements each day credited as Presenting Sponsor

Recognition as presenting sponsor on electronic scoreboard each day

1 Panel on up to four information kiosks

# SPONSORSHIP OF TOURNAMENT

3 On-court promotions between matches on Stadium Court

Area of interest/beauty shot “bumpers” during domestic cable broadcast of tournament (broadcaster’s sole discretion)

3 :30 second spots on video wall at Garden Village each day

Host sponsor recognition – all advertising & materials, and on official web site

1 Full page color ad in Program

1 Welcome letter within Program

1 ¼ page ad within daily draw sheet for 1 session as determined by Desert Champions

1 20x20 and 1 10x10 display booths for City promotion, non-profit group, or other governmental agency

Carpeted floor, General lighting, 1 4-outlet electrical outlet, 1 telephone line

Mayor/other city representative recognized during men’s and women’s Awards Ceremonies

1 Direct response campaign materials (city promotion)

ATP and WTA sanctioned event standard

## REAL PROPERTY: LAND PURCHASE/LEASE

<b>APN 633-410-028 stop n sock</b>	<b>APN 604-040-035 Miles sod parking lot</b>	<b>633-410-028 South of Miles property</b>	<b>APN 633-360-023 Warner Trail parking lot</b>
32.17 acres	44.54 acres	48.70 acres (combo stop n sock & portion of Miles sod parking lot)	12.64 acres
<b>Purchases:</b>			
City purchased August 2000 \$2,700,000			
City traded for Warner Trail parking lot March 2003 Exchange value \$2,700,000			Garden of Champions traded for stop n sock March 2003 Exchange value \$2,700,000
City bought as part of Naming/Sponsor/Land Purchase March 2006 \$15,000,000	Portion of parcel sold to City as part of Naming/Sponsor/ Land Purchase March 2006 \$15,000,000	Portion of parcel sold to City as part of Naming/Sponsor/ Land Purchase March 2006 \$15,000,000	Parking lot lease agreement March 2006 \$1 per year lease for 20 years

See attached map

# REAL PROPERTY: LAND PURCHASE/LEASE

