

**3D. ORCHID TREE HOTEL PROJECT COVENANT AGREEMENT
MILESTONE UPDATE**

RECOMMENDATION:

Receive and file.



CITY COUNCIL STAFF REPORT

DATE: March 11, 2026 BUSINESS & LEGISLATIVE
SUBJECT: ORCHID TREE HOTEL PROJECT COVENANT AGREEMENT
MILESTONE UPDATE
FROM: Scott C. Stiles, City Manager
BY: Economic Development & Planning Services

SUMMARY:

The Weintraub Group, applicant for the Orchid Tree Hotel project located at 284 Baristo Rd, has submitted the required materials to meet the extended milestone of its Covenant Agreement, which was approved by Council on April 23, 2025 (**Attachment A**).

RECOMMENDATION:

Receive and file.

BUSINESS DISCLOSURE:

The property is owned by NEW CHURCH II, LLC, a Nevada limited liability company, ARENAS BELARDO PS, LLC, a Nevada limited liability company, and CAHUILLA CHURCH, LLC, a Nevada limited liability company. (**See Attachment A**).

BACKGROUND:

Several years have transpired in the development of this project. The City's first action was taken in November of 2015. This staff report is a status report regarding the Covenant Agreement by and between the City of Palm Springs and New Church II, LLC (etc.). The Covenant Agreement set forth a series of milestones that the Developer was required to accomplish.

STAFF ANALYSIS:

Following what the City believed was an insufficient submittal by Developer, the original planning application milestone date of August 23, 2025 was extended to February 14, 2026. As of the date of this report, the City's Planning Services Department confirms that

the Developer has generally provided the required materials to substantially comply with the milestone. Under normal Planning Services procedures, the City has until March 14, 2026 to issue a letter to the Developer.

The next milestone occurs eight months from the date of the application submittal which requires the Developer to have secured the required entitlements by October 11, 2026. All other dates shift accordingly and will be memorialized between the parties.

This report makes no assertion as to the quality or nature of the planning application other than to report the required documentation has been submitted to meet the extended milestone. The City's Planning Services Department may well seek additional information or reports, and only after further processing of the application can it be determined whether and to what extent the application complies with the City's Planning and Zoning requirements.

ENVIRONMENTAL ASSESSMENT:

The City finds that no further environmental review is required in connection with this status report.

ALIGNMENT WITH STRATEGIC PLANNING:

Economic Development – Support a vibrant economy, including tourism, and new and existing businesses.

FISCAL IMPACT:

The Fiscal Impact section remains unchanged from the previous staff report (**Attachment A**) other than the date of opening will occur slightly later than originally stated thereby potentially delaying the receipt of TOT and other taxes.

REVIEWED BY:

Department Director:	Wayne Olson
City Attorney:	Jeff Ballinger
City Manager:	Scott Stiles

ATTACHMENTS:

- A. Staff report of April 23, 2025 with Business Disclosure and Covenant Agreement

ATTACHMENT A

April 23, 2025 Staff Report



CITY COUNCIL STAFF REPORT

DATE: APRIL 23, 2025

PUBLIC HEARING

SUBJECT: CONDUCT A PUBLIC HEARING UNDER SECTION 53083 OF THE CALIFORNIA GOVERNMENT CODE AND UNDER CHAPTER 5.26 OF THE CITY'S HOTEL OPERATIONS INCENTIVE PROGRAM, APPROVE A HOTEL OPERATIONS COVENANT BETWEEN THE CITY OF PALM SPRINGS AND NEW CHURCH II, LLC, A NEVADA LIMITED LIABILITY COMPANY, AND ARENAS BELARDO PS, LLC, A NEVADA LIMITED LIABILITY COMPANY, AND CAHUILLA CHURCH, LLC, A NEVADA LIMITED LIABILITY COMPANY, COLLECTIVELY THE OWNER

FROM: Scott C. Stiles, City Manager

BY: Wayne Olson, Office of Economic Development Department

SUMMARY:

This action seeks to satisfy the conditions of a public hearing and seeks approval of the economic development subsidy in the form of a TOT Operations Covenant Agreement ("Agreement") in the form of **Attachment A**. The Agreement is with the Owner, Mr. Richard Weintraub (and as described above) who is the General Manager for each of the LLCs. The Agreement is for the proposed new construction of a hospitality project ("The Orchid Tree Hotel" or "Project") which includes the rehabilitation of several historic buildings all located near downtown Palm Springs on property commonly known as 2845 Cahuilla Road (and described in the Agreement).

RECOMMENDATION:

1. Open the public hearing and receive public testimony; and,
2. Approve a Hotel Operations Covenant Agreement with The Orchid Tree Hotel and Owner; and,
3. Authorize the City Manager and City Attorney to make non-substantive changes and execute all necessary documents related to the subsidy.

BUSINESS PRINCIPAL DISCLOSURE:

The property is owned by NEW CHURCH II, LLC, a Nevada limited liability company, ARENAS BELARDO PS, LLC, a Nevada limited liability company, and CAHUILLA CHURCH, LLC, a Nevada limited liability company. A business disclosure letter from the

Owner's attorney accompanies this report in the form of **Attachment B**.

BACKGROUND:

Several years have transpired in the development of this project. The City's first action was taken in November of 2015. Recitals in the attached Agreement document the years between then and the most recent actions between the City and the Developer.

This staff report is a result of actions taken on October 24, 2022, when the Owner provided the City with a feasibility report, prepared by CBRE, which concluded that market conditions at the time precluded Owner from obtaining project financing, despite the Owner's best effort, and as such, Owner sought an additional one (1) year extension to the various project development milestones.

Thereafter, on July 13, 2023, the City and Owner entered into that certain Amendment No. 2 to the Amended and Restated Operations Covenant Agreement No. 8449. As a result of that agreement, the Developer supplied a planning application for the Project as it was modeled in the agreement at that time in October of 2023. The application was deemed insufficient and notice was sent to the Developer in November of 2023.

The City then met with the Developer in February of 2024 to discuss alterations to the application, and it was at that time the City notified the Developer of its intent to place the Developer in default of that agreement and cancelled Agreement No. 8449. However, the City then entered into a tolling agreement with the Owner which is a legal document which allows for a period of time to negotiate a resolution or gather further information.

The City and Owner spent the next several months negotiating the terms of The Agreement being reviewed in this report and attached herein.

STAFF ANALYSIS:

Owner has recently proposed further revisions to the project, including the construction of a three story, approximately 72-room luxury hotel; restoration of eight (8) existing historic single-story bungalows into eight (8) new guest rooms; restoration of an existing historic two-story church into hotel services and restaurant; sixteen (16) residential condominium (for-sale) units; gym and spa facilities; event space, administration support and back of house building, one (1) new pool and exterior café/bar, with new landscaping throughout the Site (the "Project"), which would necessitate review and approval of revised land use entitlements, which the City is willing to consider in good faith.

The Agreement is predicated on the Developer's delivery of a "Luxury Hotel" as recognized by the CBRE Hospitality Division as of the Effective Date of the Agreement, or hotels considered "luxury boutique", such as the following: Auberge Resorts, 1 Hotel, Leading Hotels of the World, or Relais & Chateaux, or similarly sized hotels operated as such that are available as of the Effective Date of the Agreement. In the event that, at any

time during the Term of the Agreement, the Developer cannot deliver any of the above brand conditions, the City and Developer will meet and confer on more hotel brands that are the equivalent of those brands.

The Developer is required to submit a new planning application by August 15, 2025 wherein updated site plans, floor plans, exterior elevations, pool and patio design, landscaping design, signage design as payment of applicable fees and other items as required by the rules and regulations of the City's code. Several other milestones are included as an exhibit to the attached Agreement. It should be noted that the Developer will be required to post a bond equal to the total construction costs of the project prior to issuance of a building permit. The reason for this is, if for any reason the Developer cannot complete the Project after the start of Construction, the beneficiary of the surety (the City) could step in to complete the Project.

Since this is a new construction project, before and after photos are not required, however, the Developer has provided conceptual drawings of the Project provided and are included in **Attachment C**.

Per State Law and City Ordinance, the following information is provided regarding the Orchid Tree Hotel Palm Springs:

- 1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.***

The Agent for service of process to Operator is Paracorp Incorporated. Operator is a single purpose entity domiciled in the State of California doing business from PO Box 6528, Malibu, CA 90264. The beneficiary of the subsidy will be New Church II, LLC, a Nevada limited liability company, Arenas Belardo PS, LLC, a Nevada limited liability company, and Cahuilla Church, LLC, a Nevada limited liability company,

- 2. The start and end dates, and schedule, if applicable, for the economic development subsidy.***

If approved, first TOT reimbursements are anticipated by 2028, and continue for thirty (30) years until 2058, or until the totality of payments totaling fifty million dollars (\$50,000,000.00) have been completed, whichever occurs first.

- 3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.***

A. Per the Program, the existing hotel project planned by Operator is rebated 75% of Adjusted TOT for thirty (30) years or until the rebate totals fifty million dollars

(\$50,000,000), whichever comes first. The renovation project must commence no more than twenty-four months after the City's execution of the Operation Covenant Agreement and be completed no later than December 31, 2027.

- B. The public funds to be spent if the City approves this Covenant will be the staff costs of administration, and statutorily mandated reporting through the term of the Program rebate/subsidy

4. A statement of the public purposes for the economic development subsidy.

- A. The City Council established the incentive program for the operation and maintenance of quality and first-class hotel facilities which enhance the tourist and travel experience for visitors to the City of Palm Springs, maximize the use of the City's convention center, provide attractive and desirable visitor serving facilities and experiences, and assist the City in achieving its tourism goals. In the implementation of this program, the City Council determined: (1) The general welfare and material wellbeing of the residents of the City of Palm Springs depend in large measure upon the growth and expansion of the tourism and travel industries in the City; (2) The operation, maintenance, and expansion of the inventory of quality hotels and first class hotels in the City of Palm Springs will create desirable visitor serving facilities that will contribute to the growth and expansion of tourism and travel opportunities in the City, ensure utilization of the City's convention center, provide employment opportunities for the residents of the City, and promote and enhance the economy of the City; (3) It is in the best interest of the City of Palm Springs to induce and encourage the operation and maintenance of hotel facilities that would not otherwise exist, thereby creating new sources of tax revenues for the City's general fund which supports the public services that the City provides its residents; and (4) The authority granted and the purposes to be accomplished are properly local governmental and public purposes for which public funds can be expended and that the operation, maintenance, and expansion of the inventory of quality and first class hotels is of paramount importance to the City of Palm Springs, its residents, and businesses. (Ord. 1730 § 2, 2008)
- B. No less than five thousand dollars (\$5,000) per room, or if the project includes any common area or amenity, or any other area for guest use at the hotel, the amount of the investment shall not be less than the amount, if any, invested in rooms, added to the total number of rooms at the hotel that will exist at the end of the project multiplied by five thousand dollars (\$5,000).
- C. The Project would help beautify the neighborhood through and implement energy saving and sustainable components as well as stabilize and re-use a Class 1 historic site.

5. Projected tax revenue to the local agency as a result of the economic development subsidy.

Per the Program, the City will receive 25% of Adjusted TOT for thirty (30) years or until the rebate to the Operator totals fifty million dollars (\$50,000,000) whichever comes first. After thirty (30) years the City will receive 100% of the TOT revenue (Adjusted TOT plus Unadjusted TOT). In addition, the City will receive approximately \$326,000 of its portion of sales tax over the same time period.

6. *Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.*

The Operator anticipates increasing employment by 60 full-time positions and 10 part-time positions, for a total of 96 FTEs. The estimated annual payroll for employees and contracted maintenance services is estimated to be one million five hundred thousand (\$1,500,000.).

ENVIRONMENTAL ASSESSMENT:

The City finds that no further environmental review is required in connection with the approval of the Agreement in that in connection with the City's approval of entitlements related to the Project on September 1, 2022, the City Council found that the Project is exempt from further review under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) and State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) as the Project meets criteria under CEQA Guidelines Section 15331 (Historic Resource Restoration/Rehabilitation), Section 15302 (Replacement or Reconstruction), and Section 15332 (Infill Development). These exemptions will apply to the Project, and apply to those projects that are consistent with the applicable general plan and zoning designations, occur within City limits on a project site of no more than five acres, occur on a site with no value as habitat, can be adequately served by utilities and public services, and where project approval would not result in any significant effects relating to traffic, noise, air quality, or water quality. (State CEQA Guidelines, § 15352.) Further, given that there is no change of use proposed here, this Agreement is merely a funding Agreement, which does not have any attendant environmental impacts. This action is also exempt pursuant to State CEQA Guidelines, section 15061(b)(3), which exempts actions for which it can be seen with certainty that there is no possibility of a significant environmental impact.

ALIGNMENT WITH STRATEGIC PLANNING:

Economic Development – Support a vibrant economy, including tourism, and new and existing businesses.

FISCAL IMPACT:

An amount equal to 75% of transient occupancy tax increment derived from the Orchid Tree Hotel over the annual base amount (in this case equal to 0.00), will be paid to the Operator for a thirty-year period. The maximum pay-out to the recipient cannot exceed

fifty million dollars \$50,000,000 over the 30-year period. The approximated sales tax revenue is projected to be \$326,000 over the same time period.

REVIEWED BY:

Department Director:	Wayne Olson
City Attorney:	Elizabeth Hull
City Manager:	Scott Stiles

ATTACHMENTS:

- A. Hotel Operations Covenant Agreement – The Orchid Tree Hotel
- B. Public Integrity Disclosure Letter
- C. Illustrative drawings

ATTACHMENT A

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

THE CITY OF PALM SPRINGS
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attention: City Clerk

(Space Above This Line for Recorder's Office Use Only)

**SECOND AMENDED AND RESTATED OPERATIONS COVENANT
AGREEMENT NO. _____**

THIS SECOND AMENDED AND RESTATED OPERATIONS COVENANT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2025, by and between on the one hand, **NEW CHURCH II, LLC**, a Nevada limited liability company, **ARENAS BELARDO PS, LLC**, a Nevada limited liability company, and **CAHUILLA CHURCH, LLC**, a Nevada limited liability company, (collectively, "Owner"); and, on the other hand, the **CITY OF PALM SPRINGS**, a California municipal corporation and charter city ("City").

RECITALS:

- A. The City of Palm Springs adopted Chapter 5.26 of its Municipal Code to provide a Hotel Operations Incentive Program ("Program") for the operation, maintenance and expansion of the inventory of quality and first class hotels within the City that enhance the tourist and travel experience for visitors to the City, maximize the use of the City's Convention Center, provide attractive and desirable visitor serving facilities and experiences, and assist the City in achieving its tourism goals. Chapter 5.26 of the Municipal Code is incorporated herein by reference and defined terms therein shall, unless otherwise indicated in this Agreement, have the same meanings herein.
- B. Owner holds fee title to certain real property (the "Site"), which is depicted on the Site Plan attached hereto as Exhibit "A", and legally described on the Legal Description attached hereto as Exhibit "B". Owner has requested that the City enter into this Agreement in accordance with the Program to facilitate development of a new hotel located on the Site, pursuant to the covenants and restrictions identified in this Agreement.
- C. On November 18, 2015, the City of Palm Springs Planning Commission adopted Resolution No. 6539, approving Major Architectural Application Case No. 3.0678 to renovate, modify and reconstruct existing buildings and construct a new three-story building with 52 hotel rooms on the Site. Accordingly, pursuant to this action, Owner

OPERATIONS COVENANT
FOR HOTEL INCENTIVE PROGRAM
AMENDED & RESTATED COVENANT
NO. _____
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satisfied the extended Program deadline for entitlement of a new hotel project on the Site by December 31, 2015.

- D. On November 9, 2016, the Planning Commission adopted Resolution No. 6595, approving an Amendment to Conditional Use Permit Case No. 5.1345 CUP, Major Architectural Application Case No. 3.0678, HSPB 23 and HSPB 72 for the adaptive re-use of existing historic structures, and construction of new hotel buildings with not more than 64 hotel rooms, and accessory commercial uses including a spa, meeting space, and bar/lounge area on the Site.
- E. On July 26, 2017, the City Council approved extending the Program deadline of December 31, 2017, by which Owner must commence construction of the City-approved project, to May 31, 2019, on the condition that Owner shall construct, operate and maintain that project as an Auberge Resorts Collection brand hotel.
- F. On November 9, 2018, the Planning Commission adopted Resolution No. 6716, approving a one (1) year extension of time for the project subject to certain conditions. On December 5, 2018, the City Council reviewed the November 8, 2018, decision of the Planning Commission, and adopted Resolution No. 24522 approving a one year extension of time for the project subject to certain conditions.
- G. In early 2019, Owner advised City it would be unable to construct the Auberge Hotel project given the Auberge Resort Hotels' amenity, service, and parking standards without financial incentives in excess of those provided by the Program. Accordingly, Owner requested relief from the requirement that the Auberge Hotel Project be a part of the Auberge Resorts Collection, and in the alternative, be considered a "Luxury Hotel".
- H. On April 17, 2019, the City Council held a noticed public hearing pursuant to California Government Code section 53083, and approved a Hotel Operating Covenant with Owner for the project (the "Original Covenant"). Pursuant to the Original Covenant, the City Council extended the Program deadline of May 31, 2019, by which Owner must commence construction of the project, to November 9, 2019.
- I. On October 23, 2019, the City Council received an update on the status of the project. At that time, Owner advised City Council that Owner had acquired additional properties located at 200 S. Cahuilla Road, 239 W. Arenas Road, and 205 S. Belardo Road, and intended to incorporate those properties into the project. As part of the status update given to City Council on October 23, 2019, Owner requested the Original Covenant to be transferred to a revised luxury hotel project, which would include those additional properties. City Council agreed, subject to certain conditions relating to Owner's commitment to perform in accordance with a milestone schedule to be incorporated into the Original Covenant. Thereafter, on January 13, 2020, the City and Owner entered into that certain Amended and Restated Operations Covenant

Agreement No. 8449, which included the additional properties as well as a schedule of performance.

- J. On March 25, 2020, the Planning Commission reviewed land use entitlements necessary for the revised luxury hotel project, including a Major Architectural Application, a Conditional Use Permit and a General Plan Amendment (Circulation Element), and recommended that the City Council approve such entitlements. On May 7, 2020, the City Council conducted a duly noticed public hearing and approved a Major Architectural Application, Conditional Use Permit, General Plan Amendment (Circulation Element), and Variance for the project.
- K. On July 13, 2022, the Planning Commission heard and considered a two (2) year extension of time for the land use entitlements for the project, specifically, the Major Architectural Application and Conditional Use Permit. The Planning Commission denied such extension. On September 1, 2022, the City Council conducted a duly noticed public hearing on said extension request and voted to extend the land use entitlements for one (1) year, from May 8, 2022 to May 7, 2023. At that same hearing, the City Council also granted Owner a forty five (45) day extension to Milestones #10 through 14 of the Performance Schedule of Amendment No. 1 to the Amended and Restated Operations Covenant Agreement No. 8449.
- L. On October 24, 2022, Owner provided the City with a feasibility report, prepared by CBRE, which concluded that market conditions at the time precluded Owner from obtaining project financing, despite the Owner's best effort, and as such, Owner sought an additional one (1) year extension to the various project development milestones. Thereafter, on July 13, 2023, the City and Owner entered into that certain Amendment No. 2 to the Amended and Restated Operations Covenant Agreement No. 8449.
- M. Owner has recently proposed further revisions to the project, including the construction of a three story, [REDACTED] room luxury hotel; restoration of eight (8) existing historic single-story bungalows into eight (8) new guest rooms; restoration of an existing historic two-story church into hotel services and restaurant; sixteen (16) residential condominium (for-sale) units; gym and spa facilities; event space, administration support and back of house building, one (1) new pool and exterior café/bar, with new landscaping throughout the Site (the "Project"), which would necessitate review and approval of revised land use entitlements, which the City is willing to consider in good faith.
- N. City and Owner desire to place restrictions upon the use and operation of the Project, in order to ensure that it shall be operated continuously as a Luxury Hotel as defined in Section 1.2.1 below, available for short-term rental for the term of this Agreement.
- O. City and Owner also agree that in return for participation in the Program, Owner shall agree to operate the Project as a hotel; participate in the Palm Springs Convention

Center's Committable Rooms Program; and provide City with a minimum of two (2) room-nights per month for official City use; and, City agrees to share a percentage of Transient Occupancy Tax with Owner pursuant to the Program guidelines.

- P. The City finds that no further environmental review is required in connection with the approval of this Agreement in that in connection with the City's approval of entitlements related to the Project on September 1, 2022, the City Council found that the Project is exempt from further review under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) and State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) as the Project meets criteria under CEQA Guidelines Section 15331 (Historic Resource Restoration/Rehabilitation), Section 15302 (Replacement or Reconstruction), and Section 15332 (Infill Development). These exemptions will apply to the Project, and apply to those projects that are consistent with the applicable general plan and zoning designations, occur within City limits on a project site of no more than five acres, occur on a site with no value as habitat, can be adequately served by utilities and public services, and where project approval would not result in any significant effects relating to traffic, noise, air quality, or water quality. (State CEQA Guidelines, § 15352.) Further, given that there is no change of use proposed here, this Agreement is merely a funding Agreement, which does not have any attendant environmental impacts. This action is also exempt pursuant to State CEQA Guidelines, section 15061(b)(3), which exempts actions for which it can be seen with certainty that there is no possibility of a significant environmental impact.
- Q. Each reimbursement payment contemplated under this Agreement shall be within the annual appropriations limit of the City for that fiscal year established in accordance with California Constitution Article XIII B.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby conveys to the City the Operating Covenants described herein, and City hereby agrees to provide Owner with funds as provided under the Program and as set forth hereinafter.

ARTICLE 1

STATEMENT OF OPERATING COVENANTS

1.1 OPERATION AND USE COVENANT. Upon occupancy, Owner covenants to operate, maintain, and use the Project as a Luxury Hotel certified by the Hotel Consultant as further defined in Section 1.2.1 and in accordance with this Agreement. All uses conducted on the Site, including, without limitation, all activities undertaken by the Owner pursuant to this Agreement shall, in all material respects, conform to requirements of this Agreement and Palm Springs Municipal Code. In accordance with Section 7.13 of this Agreement, the Owner may request City's formal approval of an alternative Hotel Operator, and that in the event of City's approval of such an amendment to this Agreement, a hotel identified by Owner with a flag or brand equal or superior to the Luxury

Hotel (as defined in Section 1.2.1) and certified by the Hotel Consultant, may serve to fulfill Owner's duties hereunder. Absent City's approval of an alternative Hotel Operator pursuant to an amendment to this Agreement, Owner's operation, maintenance and use of the Luxury Hotel meeting the definition set forth in Section 1.2.1 throughout the term of this Agreement shall be a condition precedent to Owner's receipt of any and all consideration or benefit under the Program and hereunder.

1.2 HOTEL USE. The Owner hereby agrees that the Project is to be owned, managed, and operated as a Luxury Hotel in a first-class manner, and the Project's participation in the Program shall continue in accordance with the terms of the Program, for a term equal to thirty (30) years commencing upon the date Owner first receives from the City the Owner's share of transient occupancy tax revenues pursuant to the Program, or until Owner has received from the City the total sum of fifty million dollars (\$50,000,000) if that occurs prior to the expiration of said thirty (30) years, unless Owner's participation in the Program is terminated prior thereto in accordance with this Agreement (the "Term"). Subject to Palm Springs Municipal Codes Section 5.26.040(a) and applicable provisions of this Agreement, during the Term, City shall pay to Owner, within thirty (30) days after receipt from Owner of twelve monthly payments made by Owner to the tax administrator per Section 3.24.080 of the Municipal Code, an amount equal to seventy-five percent (75%) of the adjusted tax rate of those payments made to the City.

1.2.1 "LUXURY HOTEL" BRAND PARTNER. The term 'Luxury Hotel' standard shall mean a hotel brand that satisfies the conditions of, and that is recognized as, Luxury by the CBRE Hospitality Division as of the Effective Date of this Agreement, or hotels considered "luxury boutique", such as the following: Auberge Resorts, 1 Hotel, Leading Hotels of the World, or Relais & Chateaux, or similarly sized hotels operated as such that are available as of the Effective Date of this Agreement. In the event that, at any time during the Term of the Agreement, none of the above brand conditions can be met, the Parties shall meet and confer and shall select one or more hotel brands that are the equivalent of those brands, as those brands exist and operate as of the Effective Date of this Agreement. City shall not require the Owner to pay for a hotel consultant to evaluate the luxury standard of the Project pursuant to this section 1.2.1 this Agreement. Notwithstanding the prior sentence, City may enforce the Luxury Hotel standard by means of the City's architectural review process as required by City code prior to plan check submittal, by the City's plan check process prior to construction, by the City's right to approve the hotel operator and any replacement operator under Section 7.13 of this Agreement, and by the ongoing requirement that Owner uphold and maintain the Luxury Hotel standard as a condition to receiving a share of transient occupancy tax revenues pursuant to this Agreement, as provided in Sections 1.2 and 7.13 hereof. In connection therewith, the City may, at any time, and at the City's sole cost and expense, engage the services of one or more nationally recognized consultant(s), such as CBRE or HVS, to assist the City in the City's evaluation of the "Luxury Hotel" standard.

1.2.2 Except as otherwise allowed pursuant to Section 7.13 of this Agreement, Owner understands and agrees that, to the extent Owner does not construct a Luxury Hotel as defined in Section 1.2.1, and pursues construction of, or operates an alternatively branded hotel, such alternatively branded hotel will not qualify as a new First Class Hotel pursuant to the Program, and shall not be entitled to any benefits thereof under or pursuant to the provisions of Chapter 5.26 of the Municipal Code and this Agreement. Accordingly, this Agreement will be of no further effect, and City shall have no obligations hereunder.

1.2.3 Owner shall notify City of its selection of its Brand Partner, at the time set forth in Exhibit "C".

1.3 HOUSING USES PROHIBITED. None of the rooms in the Project will at any time be utilized as a non-transient residential property including dormitory, fraternity or sorority house, rooming house, nursing home, hospital, sanitarium, or trailer court or park without the City's prior consent which consent may be given or withheld in its sole and absolute discretion.

1.3.1 LIMITED NUMBER OF RESIDENTIAL CONDOMINIUMS. Notwithstanding the preceding paragraph, the City Council shall reasonably consider the incorporation of up to sixteen (16) residential condominiums into the Project. Such residential condominiums shall not be subject to the City's transient occupancy tax (PSMC Ch. 3.24) or time-share occupancy tax (PSMC Ch. 3.28), provided that those units are not occupied as a transient or time-share use, respectively.

1.4 CONVERSION OF PROJECT. Except as provided in Section 1.3.1 above, no part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Owner take any steps in connection with the conversion of the hotel rooms to such ownership or uses to condominiums, or to any other form of ownership that would reduce the amount of TOT the City received from the Project, without the prior written approval of the City Council which approval may be given or withheld in its sole and absolute discretion.

ARTICLE 2

WARRANTIES AND COVENANTS

2. WARRANTIES AND COVENANTS. For the Term of this Agreement, the Owner hereby represents, covenants, warrants and agrees as follows:

2.1. Owner has completed the City's application for the Hotel Operations Incentive Program. Since the Project will be considered a new hotel, City has determined the Transient Occupancy Tax Base to be used to calculate the

Transient Occupancy Tax Increment shall be zero dollars (\$0.00), and the Owner accepts such Transient Occupancy Tax Base.

2.2. Owner hereby agrees to subscribe to the Palm Springs Convention Center's Committable Rooms Program or any similar successor program as identified by the City Manager without being obligated to incur any additional costs or expenses.

2.3. Upon City's prior request, Owner shall provide the City at no cost two (2) rooms for one (1) night (or 1 room for 2 nights) other than Friday or Saturday nights each month for use for City purposes as approved or designated by the City Manager, provided that such use by the City shall be subject to the rooms being available at the time of the City's request. Such accommodations shall include all services and amenities for which the Owner would normally collect transient occupancy taxes but will not include services and amenities that are optional to the transient and for which the transient is not required to pay a transient occupancy tax. City shall be responsible for any transient occupancy taxes for any occupancy provided to City under the provisions of this paragraph, with such transient occupancy taxes subject to rebate to Owner pursuant to the Program. Notwithstanding anything in this Agreement to the contrary, if the City does not use rooms during any month, then its right to use rooms with respect to that month shall expire at the end of that month and shall not accrue; provided, however, if the City was unable to use rooms solely because Owner's Hotel had no rooms available when the City requested a room in accordance with this Section 2.3, then, the City's right to use rooms shall not expire and may be used by the City in a subsequent month.

ARTICLE 3

MAINTENANCE

3. MAINTENANCE.

3.1. MAINTENANCE OBLIGATION. Owner, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Site, and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a first class condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction, at Owner's sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition; and (iii) the repair, replacement and restriping of asphalt or concrete paving using the same type of

material originally installed, to the end that such paving at all times be kept in a level and smooth condition. In addition, Owner shall be required to maintain the Project in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within one thousand (1,000) feet of such portion of the Site. Notwithstanding the foregoing, prior to the start of construction, prior to start of construction, Owner shall implement the practices set forth in Exhibit "D".

3.2. [INTENTIONALLY LEFT BLANK].

3.3. RIGHT OF ENTRY. In the event Owner fails to maintain the Site pursuant to Section 3.1, and satisfactory progress is not made in correcting the condition within thirty (30) days from the date of written notice from City (such notice shall reasonably identify the required maintenance), City may, at City's option, and without further notice to Owner, declare the unperformed maintenance to constitute a public nuisance. Thereafter, either City or its employees, contractors, or agents, may cure Owner's default by entering upon the Site, and performing the necessary landscaping and/or maintenance in accordance with Section 3.1 above. The City shall give Owner, its representative, or the residential manager reasonable notice of the time and manner of entry, and entry shall only be at such times and in such manner as is reasonably necessary to carry out this Agreement. Owner shall pay such costs as are reasonably incurred by City for such maintenance, including attorneys' fees and costs.

3.4. LIEN. If any costs incurred by City under Section 3.3 above are not reimbursed within thirty (30) days after Owner's receipt of City's written request for reimbursement, the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at a rate of the lower of ten percent (10%) per annum or the legal maximum until paid. Any and all delinquent amounts, together with said interest, costs and reasonable attorney's fees, shall be an obligation of Owner as well as a lien and charge, with power of sale, upon the property interests of Owner, and the rents, issues and profits of such property. City may bring an action at law against Owner obligated to pay any such sums or foreclose the lien against Owner's property interests. Any such lien may be enforced by sale by the City following recordation of a Notice of Default of Sale given in the manner and time required by law as in the case of a deed of trust; such sale to be conducted in accordance with the provisions of Section 2924, et seq., of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

Any monetary lien provided for herein shall be subordinate to any bona fide mortgage or deed of trust covering an ownership interest or leasehold or

subleasehold estate in and to any portion of the Site, and any purchaser at any foreclosure or trustee's sale (as well as any deed or assignment in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any such monetary lien, but otherwise subject to the provisions hereof; provided that, after the foreclosure of any such mortgage and/or deed of trust, all other assessments provided for herein to the extent they relate to the expenses incurred subsequent to such foreclosure, assessed hereunder to the purchaser at the foreclosure sale, as owner of the subject Site after the date of such foreclosure sale, shall become a lien upon such upon recordation of a Notice of Assessment or Notice of Claim of Lien as herein provided.

ARTICLE 4

COMPLIANCE WITH LAWS

4.1. COMPLIANCE WITH LAWS. Owner shall comply with all ordinances, regulations and standards of the City and City applicable to the Site. Owner shall comply with all rules and regulations of any assessment district of the City with jurisdiction over the Site.

ARTICLE 5

NONDISCRIMINATION

5.1. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES. No officer or employee of the City shall be personally liable to the Owner, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Owner or to its successor, or for breach of any obligation of the terms of this Agreement.

5.2 CONFLICT OF INTEREST. Owner acknowledges that, during the term of this Covenant, no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement nor shall Owner, during the term of this Covenant, enter into any contract of any kind with any officer or employee of the City, or any person who was a City officer or employee within the twelve (12) months preceding such contracting by Owner. Owner warrants that Owner has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

5.3. COVENANT AGAINST DISCRIMINATION.

a. In connection with its performance under this Agreement, Owner shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin (*i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity),

sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a “prohibited basis”). Owner shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City’s lawful capacity to enter this Agreement, and in executing this Agreement, Owner certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Owner activity, including but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; and further, that Owner is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

b. Owner shall not discriminate against or segregate any person, or group of persons, on account of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin (*i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, nor shall Owner, 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 guests or vendees of the Site, or any part thereof.

ARTICLE 6

COVENANTS TO RUN WITH THE LAND

6.1. COVENANTS TO RUN WITH THE LAND. Owner hereby subjects the Site to the covenants, reservations, and restrictions set forth in this Agreement (collectively, the “Operating Covenants”). City and Owner hereby declare their express intent that all such covenants, reservations, and restrictions, along with the benefits of this Agreement, shall be deemed covenants running with the land and shall pass to and be binding upon and benefit the Owner’s successors in title to the Site; provided, however, that on the termination of this Agreement said covenants, reservations and restrictions shall expire. All covenants without regard to technical classification or designation shall be binding for the benefit of the City, and such covenants shall run in favor of the City for the entire term of this Agreement, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. Each and every contract, deed or other instrument hereafter executed covering or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that Owner’s legal interest

in the Site is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the City was formed.

Owner, in exchange for the City entering into this Agreement, hereby agrees to hold, sell, and convey the Site subject to the terms of this Agreement. Owner also grants to the City the right and power to enforce the terms of this Agreement against the Owner and all persons having any right, title or interest in the Site, or any part thereof while such party owns the Site. No party shall have any liability or obligation in connection with any breach occurring while such party is not the owner of the Site.

Within fifteen (15) business days after request of Owner, City shall execute and provide to Owner an estoppel certificate, in the form approved by the City Attorney of the City, confirming whether or not Owner is in breach of any obligations under this Agreement and identifying any required cure.

ARTICLE 7

INDEMNIFICATION

7.1. INDEMNIFICATION. Owner agrees for itself and its successors and assigns to indemnify, defend with counsel acceptable to the City, and hold harmless City and its respective officers, members, officials, employees, agents, volunteers, and representatives from and against any loss, liability, claim, or judgment to or by any third party relating to development and/or operation of the Project by Owner, excepting only any such loss, liability, claim, or judgment arising solely out of the intentional wrongdoing or gross negligence of City or its respective officers, officials, employees, members, agents, volunteers, or representatives. Owner further agrees for itself, and its successors and assigns to indemnify, defend with counsel acceptable to the City, and hold harmless the City, its respective officers, members, officials, employees, agents, volunteers, and representatives from and against any loss, liability, claims, damages, penalties, losses, costs, expenses, injuries and/or liabilities arising from or related to Owner's participation in the Program, including, without limitation, any claim that such participation creates a public work for prevailing wage purposes thereby requiring the payment of prevailing wages and this obligation shall apply regardless of whether or not the claim, damage, penalty, loss, cost, expense, injury and/or liability complained of arises out of or relates in any way to any negligence on the part of City. Owner, while in possession of the Site, and each successor or assign of Owner while in possession of the Site, shall remain fully obligated for the payment of property taxes and assessments in connection with the Site. The foregoing indemnification, defense, and hold harmless agreement shall only be applicable to and binding upon the party then owning the Site or applicable portion thereof.

7.2. PREVAILING WAGE. In accordance with California Labor Code section 1781(a)(2), the Owner acknowledges that the City has expressly indicated to the Owner and persons associated with the Owner that laborers employed relative to the construction of the Project must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to Labor Code Sections 1720, et seq. and Palm Springs Municipal Code Section 7.06.030(1). The Owner agrees with the City that the Owner shall assume the responsibility and be solely responsible for payment of the prevailing per diem wage rate for their labor classification.

The Owner , on behalf of itself, its successors, and assigns, waives and releases the City from any right of action that may be available to it pursuant to California Labor Code Sections 1726 and 1781. The Owner acknowledges the protections of Civil Code Section 1542 relative to the waiver and release contained in this section 7.2, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

BY INITIALING BELOW, THE OWNER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION.

Owner's Initials

Additionally, in accordance with this section 7.2, the Owner shall indemnify, defend with counsel acceptable to the City, and hold the City harmless against any claims pursuant to California Labor Code Sections 1726 and 1781 arising from this Agreement or the construction or operation of the Project.

7.3 ATTORNEYS' FEES. In the event that a party to this Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or warranty in this Agreement, or otherwise arising out of this Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable expert witness fees, and its reasonable attorney's fees and costs. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

7.4. AMENDMENTS. This Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Riverside.

7.5. NOTICE. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

City: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Manager

Copy to: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Attorney

Owner: New Church II, LLC
c/o Weintraub Real Estate Group
P.O. Box 6528
Malibu, CA 90264

The notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received.

7.6. SEVERABILITY/WAIVER/INTEGRATION

7.6.1. SEVERABILITY. If any provision of this Agreement or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative, or unenforceable, the remainder of the provisions, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; provided, that if any material terms or provisions of these Operating Covenants are rendered invalid, void and/or unenforceable, or due to changes in the law such terms or provisions would materially alter the terms of the transactions contemplated herein, the parties agree to meet and negotiate in good faith to attempt to reform these Operating Covenants to accomplish the intent of the parties.

7.6.2. WAIVER. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.

7.6.3. INTEGRATION. This Agreement contains the entire Agreement between the parties and neither party relies on any warranty or representation not contained in this Agreement.

7.6.4. THIRD PARTIES. No third party beneficiaries are intended, and the only parties who are entitled to enforce the provisions of these Operating Covenants are the City, Mortgagees, Owner and their respective successors and assigns.

7.7. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California and is subject to the provisions of Government Code Section 53083.

7.8. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

7.9. TERMINATION. This Agreement may be terminated only (i) by and upon expiration of the Term, (ii) by mutual written agreement of the parties, and (iii) by and pursuant to the provisions of Section 7.10, 7.11 or 7.15.2 below. In addition, Owner may unilaterally terminate this Agreement at any time prior to, or after, opening the Hotel, by giving written notice to the City that it is renouncing its participation in the Program and terminating this Agreement. In the event of any termination of this Agreement, City and Owner shall sign and record a notice of termination evidencing release and termination of this Agreement as an encumbrance of record on the Site, City shall not be obligated to refund any TOT remitted after the date of termination to Owner pursuant to this Agreement, and Owner shall not be obligated to return any amounts previously paid to it by the City pursuant to the Program. In the event of any termination pursuant to the provisions of Section 7.15.2, City shall sign and record a notice of termination, and Owner hereby authorizes City's execution without Owner's signature, by evidencing Owner's agreement pursuant to Section 7.15.2 herein.

7.10 DEFAULT BY OWNER. If at any time during the Term, City contends that Owner has committed a material default with respect this Agreement, for example (and not by way of limitation), by failing to operate the Hotel as a "Luxury Hotel" as defined above, by failing to meet any performance milestone, or any other material covenant of this Agreement, City shall deliver to Owner written notice of default, which specifies in detail all facts alleged by City to constitute such default. For a period of thirty (30) days thereafter, Owner will have the right to commence and complete cure of the alleged default; provided, however, if the alleged default is of such a nature as to reasonably require more than thirty (30) days to cure, and the Parties so agree, Owner will have such additional time as is reasonably necessary to complete such cure. Subject to Section 7.12 below, if Owner fails to timely cure such default, City shall then have the right to terminate this Agreement as the City's sole and exclusive remedy. Prior to such termination, City shall afford Owner the opportunity to address the City Council, in open session, in order to dispute City's allegation of default of this Agreement.

7.10.1 LIMITED CURE FOR PERFORMANCE MILESTONES.

Notwithstanding the foregoing, Owner shall be entitled to only one cure opportunity for any and all defaults consisting of failure to meet performance milestones under Exhibit "C" to this Agreement for reasons other than Force Majeure or Excused Delay under 7.16 below ("Missed Milestone Default"). After City has given Owner a cure opportunity for one Missed Milestone Default, then Owner shall have no further right to any cure opportunity for a subsequent Missed Milestone Default relating to the same performance milestone or any other performance milestone. For purposes of this section 7.10.1, a cure opportunity shall mean that for a period of thirty (30) days after a written notice of default, Owner will have the right to commence and complete cure of the alleged default; provided, however, if the alleged default is of such a nature as to reasonably require more than thirty (30) days to cure, and the Parties so agree, Owner will have such additional time as is reasonably necessary to complete such cure.

7.11 DEFAULT BY CITY. If at any time during the Term, Owner contends that City has committed a material default with respect this Agreement, Owner may deliver to City written notice of default which specifies in detail all facts alleged by Owner to constitute such default. For a period of thirty (30) days thereafter, City will have the right to commence and complete cure of the alleged default; provided, however, if the alleged default is of such a nature as to reasonably require more than thirty (30) days to cure, and the Parties so agree, City will have such additional time as is reasonably necessary to complete such cure. Subject to Section 7.12, if City fails to timely cure such default, Owner shall then have the right to terminate this Agreement or exercise any and all other rights and remedies available at law and in equity, and each of such rights and remedies shall be cumulative and not exclusive.

7.12 MORTGAGE PROVISIONS. Anything in this Agreement to the contrary notwithstanding, with respect to any recorded mortgage or deed of trust given in good faith and for value and encumbering the Project ("Mortgage"), any holder thereof that has delivered to City a copy of such recorded Mortgage and current contact information ("Mortgagee") will be entitled rights and benefits in accordance with the following:

7.12.1. City acknowledges and agrees that the rights and obligations of Owner under this Agreement may, with or without approval by City, be conditionally assigned by Owner to any Mortgagee as security for performance of Mortgage obligations.

7.12.2. While any Mortgage remains in effect, City will not amend or modify this Agreement in any material respect without receiving prior written approval from Mortgagee, which approval may not be unreasonably withheld, delayed or conditioned; provided, however, failure by Mortgagee to provide written approval or disapproval (and if disapproval the reasons therefor) within thirty (30) days of delivery of request therefor shall be deemed to constitute approval by Mortgagee.

7.12.3. While any Mortgage remains in effect, in the event City delivers to Owner of any notice of default as referenced in either Section 3.1 or 7.10 above, City shall concurrently deliver a copy thereof to Mortgagee.

7.12.4. Delivery of any such notice of default notwithstanding, City will not terminate or initiate or pursue any action to terminate this Agreement as long as Mortgagee diligently (i) declares a default by Owner under the Mortgage, (ii) pursues foreclosure and/or other appropriate actions under the Mortgage, (iii) pays to City all amounts that would otherwise have been payable by Owner to City, and (iv) cures non-monetary defaults.

7.13 OPERATOR PROVISIONS. City acknowledges and agrees that operational obligations of Owner may, with or without consent of City, be assigned by Owner to any entity owned or wholly controlled by Owner or its Members or Hotel Operator of Owner's choice, and, in connection therewith, such Hotel Operator may assume all or part of Owner's Hotel operation obligations under this Agreement; provided, however, Owner shall retain ultimate responsibility for such Hotel operation obligations, and further, that the Project remains a Luxury Hotel meeting the "Luxury Hotel" definition pursuant to Section 1.21.

Subject to Sections 7.10 and 7.16, in the event that the Project to be developed hereunder ceases to operate as a Luxury Hotel, Owner's benefits accruing pursuant to the Program will terminate, effective immediately. Owner acknowledges that the identity of the brand or "flag" that the hotel is marketed under and/or managed by (the "Hotel Operator") is of material importance to the City, and Owner's selection of the initial Hotel Operator and any subsequent replacement of the Hotel Operator shall be subject to the City's review and approval to confirm that the Hotel Operator has the experience and reputation necessary to operate the Project as a Luxury Hotel. Such approval by the City shall not be unreasonably withheld.

Owner shall have the duty to provide the City with written notice of any actual or potential change of Hotel Operator immediately upon Owner's determination that a change of Hotel Operator has taken place or is reasonably likely to take place. That notice shall include without limitation Owner's identification of the flag or brand of an actual or potential replacement Hotel Operator, and relevant data to assist the City in determining whether the replacement hotel is consistent with the Luxury Hotel quality standard defined in Section 1.2.1, and as further required by this Agreement.

Upon City's approval of a successor Hotel Operator, the successor shall be deemed an "Approved Hotel Operator", and in connection therewith, such alternative Hotel Operator may assume all or part of Owner's Hotel operation obligations under this Agreement; provided, however, Owner shall retain ultimate responsibility for such hotel operation obligations. City agrees that while any operating agreement is in effect between Owner and the Approved Hotel Operator, and provided that City has been put on notice of such operating agreement and received contact information for such Approved Hotel

Operator, in the event City delivers to Owner of any notice of default as referenced in either Section 3.1 or 7.10 above, City shall concurrently deliver a copy thereof to the Approved Hotel Operator. Notwithstanding any other provision of this Agreement, following completion and opening for business of the Luxury Hotel, Owner may assign its right to payments under this Agreement to any person or entity. Owner shall provide written notice to City of its assignment and authorization to send subsequent payments to the assignee.

7.14 CONTINGENT PAYMENT. Owner acknowledges and agrees that any payments hereunder from transient occupancy taxes paid to City by Owner is contingent on Owner's compliance with all of the following conditions:

7.14.1 Notwithstanding any other provision herein, the City shall only make the payments required hereunder from transient occupancy taxes paid to City by Owner in exchange for consideration received from the Owner to the City during that same period.

7.14.2 In the event of a breach by the City with respect to the payments provided for under this Agreement, Owner agrees to waive (1) any right to acceleration of all future payments, and (2) collecting the full repayment obligation of the City under the Agreement. The Owner shall only be able to pursue collection of payments on an individual payment period, as such payments became due.

7.14.3 Owner shall develop the Project pursuant to the provisions of Section 7.15 herein.

7.15 TIMING OF PROJECT CONSTRUCTION AND COMPLETION. As a material inducement to City's approval of this Agreement, the Owner hereby agrees to the following conditions. The Parties agree that the Project, once it is fully entitled and approved by the City, will qualify as a new First Class Hotel pursuant to Chapter 5.26, and further, the Parties hereby agree that pursuant to the terms of this Agreement, the obligation to commence construction of the Project prior to November 9, 2019, in accordance with Chapter 5.26 shall be extended to the date consistent with the Performance Schedule referenced herein, and that if completed and opened consistent with the Performance Schedule referenced herein, and continuously operated as a Luxury Hotel as stated herein this Agreement, the Project will qualify as a First Class Hotel and be entitled to benefits thereof under and pursuant to the provisions of Chapter 5.26 of the Municipal Code and this Agreement.

7.15.1 PERFORMANCE SCHEDULE. Owner shall use its best efforts to meet the agreed schedule attached hereto, and incorporated by this reference herein as Exhibit "C", (the "Performance Schedule"). Owner acknowledges that City is relying upon Owner's representations that it can proceed with development, construction, and completion of the Project pursuant to the Performance Schedule. Owner understands and agrees that any deviation from the Performance Schedule in the

absence of the mutually agreed-upon occurrence of a *force majeure* event or excusable delay pursuant to Section 7.16, shall be considered by City as a material default by Owner. Specifically, the Owner acknowledges that time is of the essence in this Covenant. To that end, but subject to the Force Majeure/Excusable Delay provisions of Section 7.16 and the one-time cure opportunity in Section 7.10.1, in the event Owner fails to meet more than one of the scheduled events in the Performance Schedule, such failure shall constitute a material default and the City may exercise the City's right to terminate this Covenant, without an opportunity to cure. In addition, the Owner agrees that any existing or future land use entitlement(s) for the Site as a Luxury Hotel shall include in such land use entitlement(s) the same right, but not the obligation, of the City as an additional remedy following a termination of this Covenant pursuant to the preceding sentence, to terminate such land use entitlement(s), at any time prior to the occurrence of both of the following: (a) the issuance of the last discretionary entitlement for the Project; and (b) the Owner has incurred substantial costs in the construction of vertical improvements related to the Project.

7.15.2 REVISED PERFORMANCE SCHEDULE. In the event Owner's performance to develop, construct, and complete the Project is delayed due to the occurrence of a *force majeure* event or excusable delay pursuant to Section 7.16, Owner shall submit to City a written request to revise the Performance Schedule, citing the legal basis and facts supporting a determination of a *force majeure* event or excusable delay. *Force majeure* events or excusable delays as defined in Section 7.16 below (hereinafter a "Pre-Approved Delay") shall be communicated, reviewed, and approved/disapproved pursuant to Section 7.16 below, and the Performance Schedule may be revised in the City's reasonable discretion.

7.15.3 SECURITY FOR PERFORMANCE. In order to ensure the completion of the Project, Owner shall, at the time set forth in Exhibit "C", provide a performance bond. To guarantee the faithful construction of the Project and to protect City if Owner is in default as set forth in this Agreement, Owner shall, at the time set forth in Exhibit "C", provide City security in the amount of all costs and expenses to construct and install the Project, including contractor, subcontractor and material costs, but excluding therefrom any design or permitting costs ("Total Project Cost"). City may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the Project is completed and inspected by City, provided that Owner is not then in default on any provision of this Agreement, and the total remaining security is not less than twenty-five percent (25%) of the Total Project Costs. All security provided under this section shall be released at the time set forth in Exhibit "C", provided that Owner is not then in default of any provision of this Agreement. Such performance bond shall be issued by a surety that is licensed and admitted to provide surety service within the State of California.

7.16 FORCE MAJEURE AND EXCUSABLE DELAY. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, riots, floods, earthquakes, fires, explosions, casualties, unexpected subsurface conditions, construction defects, bankruptcy or default of the Hotel Operator or a key contractor or subcontractor, criminal vandalism, release of hazardous materials, disease epidemic, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting state or federal laws or regulations, judicial decisions, or any other similar cause beyond the reasonable control of the party claiming an extension of time (collectively and each a “*Force Majeure*” event), provided also, that to the extent that any one or more of the foregoing list of events is caused by, or the fault of, the party claiming an extension of time to perform, such event(s) shall not be a Force Majeure entitling the party to an extension of time. The illness or death of a principal or other person associated with either party shall be deemed to not be a force majeure. Strikes, walk outs or other labor disturbances shall constitute a force majeure only if (i) they materially disrupt Owner’s access to materials or equipment necessary for the construction, such as a major dockworker’s strike that shuts down transport and supplies; or (ii) if they directly involve key trades working at the Project jobsite and Owner enters into, and maintains, a labor peace agreement. A force majeure will be deemed to exist under this Agreement only if such event was truly and reasonably beyond the control of the party claiming an extension of time to perform. In addition, a force majeure will be deemed to exist under this Agreement, only where, under the particular circumstances, there is such an insuperable interference occurring without the party’s intervention as could not have been prevented by the exercise of prudence, diligence and care. In addition, an event that has no material effect on the cost or difficulty of performance and is wholly immaterial shall not be a *Force Majeure* event. Litigation challenging the validity of this Agreement or any of the City’s approvals of the Project, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project pursuant to this Agreement, shall also be deemed to create an excusable delay as to Owner (collectively “Excusable Delay”). The party whose performance is prevented or delayed by such event of *Force Majeure* or Excusable Delay shall give written notice thereof to the other party within no more than seven (7) business days and both parties shall have reasonably agreed that performance is appropriately excused or delayed pursuant to this Section 7.16. In the event of Force Majeure or Excusable Delay, the parties shall memorialize in writing the extension of time for the performance of any obligation whose performance has been so prevented or delayed. The term of any such extension shall be equal to the period of the Excusable Delay or *Force Majeure* event, or such other period as may be mutually and reasonably agreed upon by both parties.

Specifically and without limiting the generality of the foregoing, Owner’s covenant to continuously operate and maintain the Project as a Luxury Hotel pursuant to the definition identified in Section 1.2.1 shall be suspended to the extent such operations and maintenance are from time to time interrupted by renovations, repair and reconstruction

work undertaken by Owner whether by necessity to restore the Project to a Luxury Hotel condition, or by choice in order to enhance the guest experience at the Project. Notwithstanding the foregoing, any suspension of time in the Owner's operation of the Project pursuant to this Section 7.16 shall not exceed a time period that is mutually and reasonably agreed upon by both Parties.

However, the City shall be under no obligation (express or implied) to extend any of Owner's deadline(s) for performance above due to any inability of the Owner to obtain or maintain financing for the construction and/or operation of the Project, except to the extent Owner can demonstrate that such inability was caused by a Force Majeure event as described in the preceding two paragraphs.

SUBJECT TO THE FOREGOING PROVISIONS OF THIS SECTION 7.16,

I. THE OWNER EXPRESSLY ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND/CONDITIONS, OR BOTH, AND WAIVES ANY DEFENSE, CLAIM (INCLUDING ANY CLAIM OF FORCE MAJEURE OR EXCUSED DELAY), OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES.

II. THE OWNER EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE OWNER SPECIFICALLY, ANY CONTRACTOR, SUBCONTRACTOR, SUPPLIER OF MATERIAL, OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE OWNER EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE OWNER'S EXECUTION OF THIS AGREEMENT.

OWNER'S INITIALS _____

7.17 COOPERATION. Each party agrees to and shall do and perform such other and further acts and properly execute and deliver such other and further documents as may be reasonably necessary, expedient or convenient to implement and/or effectuate the intents and purposes hereof. City and Owner agree to cooperate with each other and/or with any Mortgagee or proposed Mortgagee, in a manner consistent with concepts and principles of good faith, fair dealing and commercial reasonableness, with respect to consideration, implementation and execution of any modification(s) to this Agreement reasonably requested by the City, Owner, Mortgagee or proposed Mortgagee. Owner shall notify the City, in writing, of any legal claim (notice, lien, lawsuit, etc.) or any force majeure event upon which Owner may rely, within seven (7) two (2) business days

following Owner's receipt of such claim, and failure to do so shall constitute a material default hereunder and a loss of Owner's opportunity to claim a force majeure delay.

7.18 REASONABLE APPROVALS. Whenever this Agreement requires or calls for the approval or consent of any party hereto, such approval shall not be unreasonably withheld, delayed or conditioned.

7.19 BINDING ARBITRATION. In the event of any dispute or controversy arising out of or relating to this Agreement, or the breach or performance of it, the parties shall reasonably attempt to resolve such dispute or controversy without resort to third party review or resolution. The parties shall first meet and confer on any such dispute or controversy. Such meeting(s) shall include any principal of the Owner and, at the discretion of the City, may include the City Manager and/or the City Council, either as a whole or through an ad hoc subcommittee designated by the City Council. Upon a determination by the parties that they are or will be unable to resolve the dispute or controversy on their own, then the parties shall, within sixty (60) days following the first meet and confer date, submit the dispute, controversy or any remaining unresolved matter to binding arbitration, to be held in the Coachella Valley, and be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association.

7.20 INCORPORATION OF RECITALS AND EXHIBITS. Each of the recitals set forth above and each of the exhibits attached hereto are agreed to and made part of this Agreement.

7.21 AUTHORITY. Each party represents and warrants to the other that such party has full right, power and authority to sign, execute and enter into this Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the City and Owner have executed this Agreement by duly authorized representatives on the date first written hereinabove.

“CITY”

THE CITY OF PALM SPRINGS,
a California municipal corporation,
and charter city

By: _____
Scott Stiles, City Manager

ATTEST:

Brenda Pree, City Clerk

APPROVED AS TO FORM:

Jeff Ballinger, City Attorney

“OWNER”

NEW CHURCH II, LLC,
a Nevada limited liability company

CAHUILLA CHURCH, LLC
a Nevada limited liability company

By: _____
Richard Weintraub, General Manager

By: _____
Richard Weintraub, General Manager

ARENAS BELARDO PS, LLC, a Nevada
limited liability company

By: _____
Richard Weintraub, General Manager

[END OF SIGNATURES]

EXHIBIT "A"
SITE PLAN

DRAFT

OPERATIONS COVENANT
FOR HOTEL INCENTIVE PROGRAM
AMENDED & RESTATED COVENANT NO. _____
EXHIBIT "A"

EXHIBIT "B"
SITE LEGAL DESCRIPTION

All of that certain real property conveyed by Grant Deed dated January 20, 2010, recorded as Document No. 2010-0046920, records of Riverside County, located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Number 513-151-037, and more particularly described as:

Lot 9 of Tract No. 31877 in the City of Palm Springs, County of Riverside, State of California as shown on said Tract Map filed in Book 364, Pages 66 through 69, inclusive, of Miscellaneous Maps and as amended by a Certificate of Correction recorded May 8, 2008, as Instrument No. 2008-0244658 of Official Records, in the Office of the County Recorder of said County.

All of that certain real property conveyed by Trustee's Deed Upon Sale dated March 9, 2010, recorded as Document No. 2010-0126950, records of Riverside County, located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Numbers 513-151-041, 513-151-042, 513-151-043, and 513-151-044, and more particularly described as:

Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, of Block 16, of Palm Springs, in the City of Palm Springs, County of Riverside, State of California, as shown by Map on file in Book 9, Page 432, of San Diego County records.

Lots 20, 21, 22, 23, 24, and the south 10 feet of Lot 1, and the south 10.00 feet of the west half of Lot 2, together with that portion of the east 8.00 feet of Cahuilla Road (formerly known as Orange Street), adjoining the above described land on the west, as vacated and closed to public use by order recorded March 27, 1926, in Book 665, Page 532 of Deeds, records of Riverside County, California.

All of that certain real property conveyed by Grant Deed dated September 5, 2017, recorded as Document No. 2017-0409254, records of Riverside County, located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Number 513-151-039, and more particularly described as:

Easterly rectangular ½ of Lot 2; all of Lots 3 and 4 and the Westerly 8.55 feet of Lot 5, all in Block 16, of Palm Springs, in the City of Palm Springs, County of Riverside, State of California, as shown by Map on file in Book 9, Page 432, of San Diego County records.

EXHIBIT "B"
SITE LEGAL DESCRIPTION
(CONTINUED)

All of that certain real property conveyed by Grant Deed dated August 6, 2018, recorded as Document No. 2018-0327297, records of Riverside County, located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Number 513-151-040, and more particularly described as:

The easterly rectangular 34.35 feet of Lot 5 and all of Lot 6 in Block 16, of Palm Springs, in the City of Palm Springs, County of Riverside, State of California, as shown by Map on file in Book 9, Page 432, of San Diego County records.

Excepting therefrom that portion as conveyed to the City of Palm Springs by grant of right-of-way, recorded February 4, 1972, as Instrument No. 14975, of official records of Riverside County, California.

All of that certain real property conveyed by Grant Deed dated January 31, 2019, recorded as Document No. 2019-0094151, records of Riverside County, located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Number 513-151-038, and more particularly described as:

Lot 1 and the West half of Lot 2 in Block 16, of Town of Palm Springs, in the City of Palm Springs, County of Riverside, State of California, as shown by Map on file in Book 9, Page 432, of San Diego County records.

Together with the Easterly 8.00 feet or Orange Street adjoining, as vacated by the board of supervisors of Riverside County on March 22, 1926.

EXHIBIT "C"
PERFORMANCE SCHEDULE

	Duration	Milestone	Surety	Not Later Than
A		Covenant Agreement Approved	Covenant Agreement	April 23, 2025
B	+ 4 months from A Deadline	Planning Application: <ul style="list-style-type: none"> Submit full planning application and fees Stabilize extant structures 	1. Review delay with City Council 2. Forfeit TOT Agreement	August 23, 2025
C	Public schedule	Full entitlements granted (includes appeals): <ul style="list-style-type: none"> HSPB (if needed) Planning Commission ARC 	1. Review delay with City Council 2. Forfeit TOT Agreement	TBD – estimated 8 months from submittal (April 2026)
D	+8 months from C Approvals	Developer submits building application: <ul style="list-style-type: none"> Submit complete set of plans for code review Evidence of Prelim Brand Commitment of Upper Upscale or Luxury partner DD/CD cost estimate from licensed estimator or general contractor Preliminary evidence of financing of DD/CD cost 	1. Review delay with City Council 2. Forfeit TOT Agreement	December 30, 2026*
E	+5 months from D Deadline	City reviews building application: <ul style="list-style-type: none"> City Review of CD's/Plan Check Completed City shall process the submittals diligently and in good faith.		May 30, 2027*
F	+1 months from E deadline	City issues building permit(s): <ul style="list-style-type: none"> Evidence of final commitment of Upper Upscale or Luxury Brand partner Submit Guaranteed Maximum Price or Total Project Cost 	Completion Bond concurrent with Building Permit	June 30, 2027*

OPERATIONS COVENANT
FOR HOTEL INCENTIVE PROGRAM
AMENDED & RESTATED COVENANT NO. _____
EXHIBIT "C"

		<ul style="list-style-type: none"> Evidence of Financing of Guaranteed Maximum Price or Total Project Cost 		
G	+2 weeks from F deadline	Developer begins construction: <ul style="list-style-type: none"> Commence Construction 	Completion Bond	Jul 15, 2027*
H		Grey shell complete	% reduction Completion Bond	TBD*
I	30 months from H	Satisfy conditions for issuance of 100% CoC	Full release of remaining surety	December 30, 2029*

* Deadlines for Milestones D through I shall be administratively adjusted by the City Manager if the City entitlement process under Milestone C takes more than the estimated 8 months, provided the delay is not due to a lack of reasonable diligence by Owner.

DRAFT

EXHIBIT "D"
PRE-CONSTRUCTION MAINTENANCE PROGRAM

Remove all dead vegetation, including dead trees and bushes

Provide daily on-site, in-person security 7:00 p.m. through 7:00 a.m., plus daily maintenance check and trash collection. Such security shall be licensed in accordance with the Private Security Services Act (Bus. & Prof. Code, 7580 et seq.)

The property shall be secured with perimeter fencing/screening as approved by the City's Development Services Director. Such fencing/screening must be maintained in a clean and presentable fashion, and graffiti shall be removed within 48 hours of notification to Owner. If the fencing/screening becomes faded, Owner shall replace or re-surface the fencing/screening, so as to not be faded.

Keep the site clear of trash, debris, and branches/palm fronds, whether on the ground or on rooftops of buildings.

Post "No trespassing" signage at intervals no more than 150' apart. The signage must reference Penal Code Section 602(l). The property shall also contain signage that indicates the property is under video surveillance. Each side of the property shall also display a sign, which provides management contact information. The property shall be posted with the name and 24-hour contact phone number of the local property management company and security company. The posting shall be no less than 18" X 24", shall be of a font that is legible from a distance of forty-five (45) feet, and shall contain the following verbiage: "THIS PROPERTY MANAGED BY _____" and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)".

There shall be at least two designated entry points on the Cahuilla and Belardo sides of the property and at least one on the Baristo side. Designated entry points to the property shall be locked. Access keys/codes shall be made available to law enforcement and fire personnel by means of Knox Box security containers keyed to match the keys utilized by Palm Springs Fire and Palm Springs Police personnel. The security boxes shall be marked with reflective tape.

All structures on said property shall be secure from access by trespassers. Any breach or attempted breach to a structure and/or perimeter fence shall be repaired to the City's satisfaction within two (2) business days.

Install lighting at pedestrian access points. Lighting activated by motion sensors shall be installed along walkways of the property and other areas designated by the Chief of Police or his designee. All lighting shall comply with section 93.21.00 of the Palm Springs Zoning Code (PSZC).

Install and maintain a video surveillance system as approved by the Chief of Police or the Chief's designee. Use of the surveillance system shall provide twenty-four (24) hour coverage of the property in the form of video and/or still images triggered by motion. Any data captured on the remote cameras shall be evaluated weekly by Owner. In the event there is evidence of a trespass or damage caused by an unknown party, the surveillance footage will be evaluated. This system shall, at a minimum, monitor any points of ingress or egress through the property as well as any large open space areas, the back sides of buildings and the narrow alleys and spaces between the buildings. Images captured by this surveillance system shall be maintained for a period of no less than thirty (30) d. Copies of footage shall be made available to the Chief of Police or his designee no later than two (2) business days after a request for the footage is made.

The property landscape shall be maintained in compliance with PSZC section 93.19.00, subsection 1, and with PSMC section 11.72.170(b)(1), both of which read as follows - *All properties, including vacant properties, shall be kept free of trash, building materials or the storage of other goods which are visible from the street or adjacent properties. Properties shall also be kept free of excessive vegetative undergrowth.*

At such time as the property is sold or otherwise changes, management and the person named below is no longer responsible for the property, they shall notify the City immediately.

ATTACHMENT B

LAW OFFICE OF MARC P. JACOBS

12424 WILSHIRE BLVD., SUITE 900
LOS ANGELES, CALIFORNIA 90025
CELL: (310) 346-6905
MPJACOBS.LAW@EARTHLINK.NET

April 8, 2025

**City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262**

Re: 2845 Cahuilla Road

Gentlemen:

This office is legal counsel to New Church II, LLC, Cahuilla Church, LLC, and Arenas Belardo PS, LLC. As a group, these three entities own contiguous parcels of land commonly known as 2845 Cahuilla Road as to which we understand there are pending before the City applications for redevelopment of these parcels into a hotel. The APNs for the parcels are identified as follows:

New Church II, LLC, a Nevada LLC
513-151-041
042-043-044

Cahuilla Church, LLC, a Nevada LLC
513-151-037

Arenas Belardo PS, LLC, a Nevada LLC
513-151-038
038-039-040

The foregoing entities are owned and managed by several affiliated intermediaries, however, those intermediaries are all ultimately owned by the following entities:

The REW I Trust
Trustee – Alliance Trust Company of Nevada
Settlor – Richard Weintraub
Investment Advisor – Richard Weintraub
Beneficiaries – Liane Weintraub, Ava Weintraub, and Coleman Weintraub

The LCMW II Trust
Trustee – the National Alliance Company of Nevada
Settlor – Liane Weintraub
Investment Advisor – Richard Weintraub
Beneficiaries – Richard Weintraub, Ava Weintraub, and Coleman Weintraub

The Weintraub Descendents Trust of 2009
Trustee – Richard Weintraub
Settlers – Richard and Liane Weintraub
Beneficiaries – Ava Weintraub and Coleman Weintraub

Each of the operating LLCs are essentially and ultimately managed by Richard Weintraub.

If you have any questions, please do not hesitate to contact me.



Marc Paul Jacobs

ATTACHMENT C



