

**AMENDMENT NO. 4 TO THE PROFESSIONAL CONSULTANT SERVICES AGREEMENT,
C43370 FOR MARKETING SERVICES BETWEEN THE CITY OF PALM DESERT AND FG
CREATIVE**

1. Parties and Date.

This Amendment No. 4 to the made and entered into as of this 11th day of July 2024, by and between the City of Palm Desert ("City") and FG CREATIVE, a Corporation, with its principal place of business at 19725 Driscoll Road, Desert Hot Springs, CA 92241 ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and FG Creative have entered into an agreement entitled "Professional Consultant Services Agreement for Marketing Services" dated June 23, 2022 ("Agreement" or "Contract") for the purpose of retaining the services of FG Creative to provide Marketing Services.

2.2 Amendment. The City and FG Creative entered into Amendment No. 1 to increase compensation during the period of July 1, 2022 through June 30, 2023. The Parties have heretofore entered into Amendment No. 1 dated May 11, 2023

2.3 Amendment. The City and FG Creative entered into Amendment No. 2 to establish compensation for the second year of the contract, July 1, 2023 through June 30, 2024. The Parties have heretofore entered into Amendment No. 2 dated August 24, 2023.

2.4 Amendment. The City and FG Creative entered into Amendment No. 3 to increase compensation for the period of July 1, 2023 through June 30, 2024. The Parties have heretofore entered into Amendment No. 3 dated March 11, 2024.

2.5 Amendment. The City and **FG Creative** desire to amend the Agreement to establish compensation for the third year of the contract, July 1, 2024 through June 30, 2025.

2.6 Amendment Authority. This Amendment No. 4 is authorized pursuant to Section 3.9 (N) Amendment; Modification of the Agreement.

3. Terms.

3.1 3.6.A Compensation is hereby amended in its entirety to read as follows:

Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed Two Hundred Seventy-Five Thousand Dollars (\$275,000) without the written approval of the City Council or City Manager, as applicable.

3.2 "Exhibit C" is hereby deleted in its entirety and replaced with "Exhibit C" attached hereto and incorporated herein by reference.

3.3 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 4. From and after the date of this Amendment No. 4,

whenever the term “Agreement” or “Contract” appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 4.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

3.5 Severability. If any portion of this Amendment No. 4 is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6 Counterparts. This Amendment No. 4 may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 4 TO THE PROFESSIONAL CONSULTANT SERVICES AGREEMENT FOR MARKETING SERVICES BETWEEN THE CITY OF PALM DESERT AND FG CREATIVE

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 4 to the **Professional Consultant Services Agreement for Marketing Services** as of the day and year first above written.

CITY OF PALM DESERT

FG CREATIVE, a Corporation

By: _____
L. Todd Hileman
City Manager

By: _____
Stephanie Greene
CEO

Attest:

By: _____
Stephanie Greene
CEO

By: _____
Anthony J. Mejia
City Clerk

Approved as to form:

By: _____
Isra Shah
Best Best & Krieger LLP
City Attorney

QC: _____

Insurance:

Initial Review

Final Approval

7. EXHIBIT “C”

7.1 COMPENSATION

The CITY's budget for advertising and publicizing the EPPBID's facilities, services, and events is established as part of the CITY's fiscal year budget for the period of July 1, 2024 - June 30, 2025, at **\$275,000**. The CITY reserves the right, at any time during the term or any extension thereof, to adjust the amount budgeted for advertising and promotion services. Prior to performing any services or furnishing any material contemplated by this Contract to be undertaken and furnished by FG CREATIVE, the CITY or its designee, after conferring with FG CREATIVE, shall authorize the services rendered and materials to be furnished, the agreed compensation to be paid for their services, the manner of payment (lump sum or periodic progress payments), the description and estimate of reimbursable expense, and such other matters as may be deemed proper. Subject to the limitations and provisions set forth in this section, the CITY shall compensate and reimburse FG CREATIVE as follows:

- The CITY will pay FG CREATIVE a flat fee of \$3,350 per month to cover advertising services in accordance with the proposal presented by FG CREATIVE as attached in the Addendum to the EPPBID and/or any marketing mutually agreed to by the parties hereto. The fee covers not less than 40 hours per month; such services include, but are not limited to, meetings, account planning and service, production management, media planning and buying, and clerical.
- FG CREATIVE will purchase media at the lowest rate available. All billings will be submitted at net costs for payment by the CITY. FG CREATIVE will not markup billings or receive commissions.
- FG CREATIVE shall bill the CITY monthly for the previous month's activities. Each invoice shall contain, in reasonable detail, the projects and services worked on and rendered with supporting documentation of reimbursable costs and expenses. Payment and reimbursements provided for in this in Section 4 will be made in due course by the City of Palm Desert.
- FG CREATIVE shall keep full and accurate books of account and records and other pertinent data in accordance with generally accepted accounting principles reflecting all transactions contemplated by this Contract.

Fees	\$	44,250
Branding	\$	43,500
Advertising	\$	104,400
Merchant Support	\$	40,050
Community		
Partnerships	\$	3,800
Activations/Events	\$	39,000
	\$	275,000

7.2 RENEWAL

In the event that this Agreement is renewed pursuant to the Section titled "Term," the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Riverside-San Bernardino Ontario, CA.