

**RIGHT OF ENTRY AGREEMENT**  
(Kam Sang Company, Inc./Desert Willow Parcels)

This RIGHT OF ENTRY AGREEMENT (“**Agreement**”), dated as of \_\_\_\_\_, 2024, is made by and between the Successor Agency to the Redevelopment Agency of the City of Palm Desert, a public agency, corporate and politic (“**SARDA**”), and Kam Sang Company, Inc., a California corporation (“**Licensee**”), who agree as follows:

**RECITALS**

A. SARDA is the owner of that certain real property designated as Assessor’s Parcel Numbers 620-150-012, 620-450-013, 620-450-014, 620-450-016, 620-450-017, 620-450-018, and 620-450-020, situated northeast of the intersection of Desert Willow Drive and Market Place Drive in the City of Palm Desert, County of Riverside, State of California, consisting of approximately 34.11 acres, which acreage is vacant, unimproved land (“**Property**”). The Property is shown on **Attachment No. 1**, attached hereto and incorporated herein.

B. City and Licensee are currently parties to that certain Exclusive Negotiating Rights Agreement, dated \_\_\_\_\_, 2024, pursuant to which City and Licensee are negotiating a Disposition and Development Agreement contemplating the sale of the Property by SARDA to Licensee, and the subsequent development of the Property (“**DDA**”).

C. In order to make an informed decision on whether to proceed with the purchase and development of the Property, Licensee wishes to conduct studies and investigations of physical, geological, and environmental conditions on the Property, including (without limitation) drilling, trenching and excavation as necessary or desirable for evaluating subsurface conditions (“**Studies**”). The proposed locations for Studies are showed on **Attachment No. 1**.

D. Licensee seeks to have access to, and SARDA wishes to provide Licensee with access to, the Property in order to conduct the Studies Licensee deems necessary or desirable, subject to the terms hereof.

**AGREEMENT**

1. **Right of Entry.**

(a) **Grant.** SARDA grants to Licensee a non-exclusive license to enter on the Property to conduct Studies of the real property as Licensee deems necessary or desirable.

(b) **Term.** The term of this Agreement shall commence upon the date first written above, and shall expire on the earlier of: (i) the Close of Escrow, as will be defined in the DDA; or (ii) the termination of this Agreement by either party upon 5 days prior advance written notice to the other party (“**Term**”). Upon the termination of this Agreement pursuant to clause (ii) above, Licensee shall, at its sole cost and expense, remove any personal property or equipment of Licensee on the Property in accordance with all applicable laws.

(c) Costs. Licensee shall bear the entire cost of all Studies performed by Licensee or at Licensee's direction.

2. Notice. Licensee shall, at least one (1) business day (but in no event less than twenty-four (24) hours) prior to entry onto the Property, provide written notice to the Executive Director, Todd Hileman, by electronic mail at [thileman@palmdesert.gov](mailto:thileman@palmdesert.gov), of its intention to enter the Property to have its contractors begin the contemplated Studies. The notice shall expressly inform the SARDA contact named above when Licensee needs access to the Property

3. Permits and Compliance with Law. Licensee and/or its contractors shall conduct the Studies in accordance with all applicable federal, state, and local laws, regulations, standards, directives, guidelines, and judicial and administrative orders and decrees (collectively, "**Laws**") currently existing and as may be amended, enacted, issued, or adopted, prior to conducting the Studies, and shall obtain and maintain, at its sole cost and expense, all governmental permits and authorizations required by any governmental authority for the Studies and all activities associated therewith, or any other activity of Licensee on the Property. Licensee shall provide copies of all such permits to SARDA prior to performing the Studies.

4. Assumption of Risk. Each person entering upon the Property under this Agreement shall do so at his, her or its own risk. On behalf of itself and its agents, representatives, assigns, heirs, spouses, successors-in-interest, executors, administrators, employees, contractors and subcontractors ("**Releasors**"), Licensee assumes all risk of entering the Property and agrees that SARDA, and its officers, agents, representatives, volunteers and employees are released and shall not be liable in any manner for harm, injury or death of Releasors or for damage to property of Releasors caused by Licensee entry upon the Property under this Agreement and whether occurring on or after the date of this Agreement. This release applies to all potential future claims and Licensee on behalf of itself and the Releasors agrees to waive any and all rights pursuant to Section 1542 of the California Civil Code, as follows:

"A general release does not extend to claims that the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

5. Restoration. In the event that Licensee causes any damage to any portion of the Property or any adjacent properties or the existing improvements thereon, Licensee, at its expense, shall promptly restore the Property, adjacent properties and existing improvements thereon as nearly as possible to the physical condition existing immediately prior to Licensee's entry onto the Property.

6. Insurance. Prior to conducting any Studies on the Property, and throughout the duration of this Agreement, Licensee shall provide to SARDA evidence of insurance coverage acceptable to SARDA to protect SARDA and Licensee from damages and losses that may arise from such preliminary work, as follows.

(a) Minimum Insurance. Licensee shall procure and maintain the following insurance:

(i) Commercial General Liability insurance, or its equivalent, with limits not less than \$2 million per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or be twice the required occurrence limit. Such insurance shall be primary and not contribute with any insurance or self-insurance maintained by SARDA. Such insurance shall be endorsed to designate SARDA, its elected and appointed officials, employees, and volunteers as additional insureds.

(ii) Business automobile liability insurance with limits not less than \$1 million per occurrence. Such insurance shall include coverage for owned, non-owned, and hired automobiles.

(iii) Workers' compensation insurance as required by California law and Employer's Liability insurance with limits not less than \$1 million per accident for bodily injury or disease. The workers' compensation insurance shall contain an endorsement stating the insurer waives any right of subrogation against SARDA, its elected and appointed officials, employees and volunteers.

(b) Special Provisions Applicable to All Coverages.

(i) The policy must provide SARDA 30 days' notice of cancellation.

(ii) Self-insured retentions must be declared and approved by SARDA.

(c) Evidence of Insurance. Prior to commencement of work, Licensee shall furnish SARDA with certificates and specified endorsements evidencing compliance with these insurance requirements. Licensee agrees to provide complete, certified copies of all required insurance policies if requested by SARDA.

(d) Acceptability of Insurers. Insurance shall be placed with insurers that maintain an A.M. Best rating of A-, VII or better or otherwise meet the written approval of SARDA.

(e) Contractors; Subcontractors. Licensee shall ensure that contractors and subcontractors maintain insurance that complies with the requirements stated herein.

7. Indemnification by Licensee. Licensee shall defend, indemnify, protect and hold SARDA harmless from any and all costs, expenses (including, without limitation, reasonable attorneys' fees and expenses), claims, damages, losses, liabilities and demands arising from or related to Licensee, or Licensee's agents', employees', contractors' or consultants', entry upon the Property or the exercise of Licensee's rights under this Agreement, whether occurring prior to, on or after the date of this Agreement, including (without limitation) (i) damage to the Property or any adjacent properties, buildings or improvements; (ii) injury to or death of any person, and/or (iii) the further release of any hazardous materials, including lead based paint or asbestos, presently existing on or about the Property as a result of testing for the same (collectively, "**Licensee's Indemnity Obligations**"). However, notwithstanding anything to the contrary contained herein, Licensee shall have no liability under this Agreement with respect to the discovery of Hazardous

Materials on the Property as a result of the Studies. Licensee's Indemnity Obligations and liability under this Section 7 shall survive the termination of this Agreement.

8. Mechanic's Liens. Licensee shall have no right, power or authority to bind SARDA or any interest of SARDA in the Property under any statute relating to mechanic's liens by a contract for the furnishing of any work, labor, or material on or to the Property. In the event that any notice of mechanic's liens is filed or given, Licensee shall, without delay, cause the same to be released or discharged.

9. Miscellaneous.

(a) Entire Agreement. This Agreement contains the entire agreement between the parties respecting the subject matter of this Agreement and supersedes all prior and contemporaneous understandings and agreements, whether oral or written, between the parties respecting the subject matter of this Agreement.

(b) Choice of Law. This Agreement shall be governed by the laws of the State of California.

(c) Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms, application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

(d) Waiver of Covenants and Conditions. The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.

(e) Amendment. This Agreement may be amended at any time by the written agreement of SARDA and Licensee. All amendments, changes, revisions and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.

(f) Incorporation of Recitals. The Recitals set forth at the beginning of this Agreement are hereby incorporated by reference into this Agreement as though fully set forth within the body herein.

(g) Headings. The section and subsection headings to this Agreement are inserted for convenience only and shall not be deemed to constitute a part hereof.

(h) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

(i) Notices. All notices and demands which any party is required or desires to give to any other shall be given in writing by personal delivery, by certified mail, return receipt requested, or by electronic facsimile transmission to the address or telecopy number set forth below for the respective party.

**To City:** City of Palm Desert  
Attn: Eric Ceja, Community Development Director  
73510 Fred Waring Drive  
Palm Desert, California 92260  
Telephone: (760) 776-6384  
Email: eceja@palmdesert.gov)

**To Licensee:** Kam Sang Company, Inc.  
Attn: Tiffany Lam, CEO  
411 E. Huntington Drive, Suite 305  
Arcadia, CA 91006  
(626) 446-2988  
Email: \_\_\_\_\_

10. Right of Possession. Licensee acknowledges and agrees that the Agreement shall not create any possessory rights in Licensee with respect to the Property.’

11. No Assignment. Licensee shall not assign, mortgage, pledge or encumber (whether voluntarily or by operation of law) the Agreement, or any of Licensee’s rights or obligations under this Agreement, in whole or in part, or permit the same or any portion thereof to be used by others, without the prior written consent of SARDA in each instance, and any attempted assignment, mortgage, pledge or encumbrance by Licensee in violation of this Section 11 shall be void.

12. Attorney Fees. If any action is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to reimbursement for all costs and attorney fees incurred in such action.

13. Authority. Licensee and City each represent and warrant to the other, as of the date hereof, that (i) it has the full power and authority to enter into this Agreement and to carry out the performance of the covenants and obligations contained herein; and (ii) no consent or authorization of any third party is required for Licensee’s or SARDA’s execution and delivery of this Agreement.

*[Signature Page Follows]*

**LICENSEE:**

Kam Sang Company, Inc.,  
a California corporation

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

Name: Tiffany Lam

Title: Chief Executive Officer

**SARDA:**

Successor Agency to the Redevelopment Agency of the  
City of Palm Desert, a public body, corporate and politic

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

L. Todd Hileman, Executive Director

**ATTEST:**

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

Anthony J. Mejia, City Clerk

**APPROVED AS TO FORM:**

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

Robert F. Messinger  
Burke, Williams & Sorensen, LLP  
Special Counsel

ATTACHMENT NO. 1

Depiction of the Property

The Property is shaded in red in the depiction below and designated as SARDA Owned in the key.



Desert Willow Lot Pads C, D, and E



- CITY OWNED
- SARDA OWNED

