

**AMENDMENT NO. 4 FOR MAINTENANCE SERVICES OF THE CITY OF PALM DESERT'S
PUBLIC ART COLLECTION AND THE EL PASEO SCULPTURE EXHIBITION
BETWEEN THE CITY OF PALM DESERT AND SAME DAY EXPRESS**

1. Parties and Date.

This Amendment No. 4 for Maintenance Services of the City of Palm Desert's Public Art Collection and the El Paseo Sculpture Exhibition is made and entered into as of this 9th day of May, 2024, by and between the City of Palm Desert ("City") and Same Day Express, a Sole Proprietor with its principal place of business in Palm Desert, California, "Contractor". City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and Same Day Express have entered into an agreement entitled "Maintenance Services of the City of Palm Desert's Public Art Collection and the El Paseo Sculpture Exhibition" dated June 10, 2021 ("Agreement" or "Contract") for the purpose of retaining the services from Same Day Express to provide Maintenance Services of the City's Public Art Collection and the El Paseo Sculpture Exhibition.

2.2 Amendment No. 1. The City and Same Day Express desire to amend the Agreement to extend its term of Agreement from July 1, 2022, to June 30, 2023. The Parties have heretofore entered into that Amendment No. 1 dated April 14, 2022.

2.3 Amendment No. 2. The City and Same Day Express desire to amend the Agreement to extend its term of Agreement from July 1, 2023, through June 30, 2024. The parties have heretofore entered into that Amendment No. 2 dated May 11, 2023.

2.4 Amendment No. 3. The City and Same Day Express desire to amend the Agreement to increase compensation amount and to include additional services. The parties have heretofore entered into that Amendment No. 3 dated December 1, 2023.

2.5 Amendment No. 4. The City and Same Day Express desire to amend the Agreement to update compensation and extend its term of Agreement from July 1, 2024, through June 30, 2025.

2.6 Amendment Authority. This Amendment No. 4 is authorized pursuant to Section 5 of the Agreement.

3. Terms.

3.1 Section 3. Scope of Services; Schedule. of the Agreement is hereby amended in its entirety to read as follows:

The Vendor shall be solely responsible for providing all materials, labor, tools, equipment,

water, light, power, transportation, and superintendence of every nature and all other services and all facilities necessary to execute, complete, and deliver the services as particularly described in the Scope of Services ("Services") attached hereto as Exhibit "B-2" and incorporated herein by this reference. The Services shall be completed timely and in accordance with the Schedule of Services set forth in Exhibit "B-2".

3.1.1 Section 5. Compensation. of the Agreement is hereby amended in its entirety to read as follows:

" Vendor shall receive compensation for Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by this reference. The total compensation shall not exceed **Ninety-One Thousand Two Hundred Dollars and No Cents (\$91,200.00)** per fiscal year ("Agreement Price"). Vendor's invoices shall include a detailed description of the Services performed. Invoices shall be submitted to the City on a monthly basis. The City shall review and pay all non-disputed and approved charges on such invoices in a timely manner. Vendor shall submit its final invoice to the City within thirty (30) days from the last date of Services performed and failure to do so shall result in a waiver of payment from the City."

Description of Services	Unit of Services	Budget Amount
Maintenance Services in Exhibit B-2	\$4,600.00 Per Month (12 months)	\$55,200.00
Additional Work	\$80.00 per Hour	\$30,000.00
Inventory Management	\$80.00 per Hour	\$6,000.00
Grand Total		\$91,200.00

3.1.2 Term. Section 4. of the Agreement is hereby amended in its entirety to read as follows:

"The term of this Agreement shall be from July 1, 2024, through June 30, 2025, unless earlier terminated as provided herein."

"Exhibit **B and B-1** is hereby deleted in its entirety and replaced with Exhibit **B-2** attached hereto and incorporated herein by reference."

3.2 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.

3.3 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.

3.4 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.

3.5 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 MAINTENCE SERVICES AGREEMENT,
C41660 BETWEEN THE CITY OF PALM DESERT
AND SAME DAY EXPRESS**

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AMENDMENT
NO. 4 TO THE **MAINTENANCE SERVICES AGREEMENT, C41660** AS OF THE DAY AND
YEAR FIRST ABOVE WRITTEN.

CITY OF PALM DESERT

**SAME DAY EXPRESS, A SOLE
PROPRIETORSHIP**

BY: _____
L. TODD HILEMAN
CITY MANAGER

BY: _____
BRETT FORE
OWNER, OPERATOR

ATTEST:

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

EXHIBIT "B-2"

SOCPE OF SERVICES; SCHEDULE OF SERVICES

SCOPE OF WORK: The City of Palm Desert's public art collection consists of seventy- three (73) artworks in its permanent collection and eighteen (18) sculptures in the medians on El Paseo. More specific project requirements are as follows.

SEVENTY-THREE (73) PIECES OF THE PERMANENT COLLECTION

1. Cleaning of all seventy-three (73) artworks will be required two (2) times each year throughout the duration of the contract which includes dusting, washing, and waxing.
2. Minor conservation work will be performed as required in addition to the required two times a year cleaning (removing corrosion, graffiti, flaking, paint, water deposits, etc.). Occasional placement of signage and installation of plaques may be needed. Contractor may be called upon at any time to perform minor conservation work and must be able to respond on site within two (2) hours in the case of emergency.
3. A detailed written report shall be included with the monthly invoice stating the condition of the artwork before cleaning was completed as well as details of work performed. Invoices shall be sent to the Management Analyst in the Public Art Division.
4. Color photographs of artworks before and after treatment should be taken by the contractor and included with the monthly invoice.
5. The contractor will provide staff with detailed information, including color photographs, on any conservation or vandalism problems that may have occurred to the art. The need for restoration work will be discussed with staff on a case-by-case basis prior to work being completed. All damage or vandalism to any artwork should be reported to the Public Art Department immediately.
6. During the one (1) year contract, additional artworks may be added to the collection which will not increase the amount of the contract. However, any added artwork will be considered depending on level of maintenance required.
7. The artwork at the Palm Desert Aquatic Center consists of stained designs integrated into the concrete deck between the pool and the changing rooms. Specific chemicals need to be used to clean the surface once a month. Stain touch up and sealing of the artwork is required two (2) times a year.
8. Supplies are to be provided by Contractor.
9. Implementation of Inventory management of public art.

EXHIBIT "B-2"

SCOPE OF SERVICES; SCHEDULE OF SERVICES

EXHIBIT "B-2"

SCOPE OF SERVICES; SCHEDULE OF SERVICES

“EXHIBIT C”

COMPENSATION

Description of Services	Unit of Services	Budget Amount
Maintenance Services in Exhibit B-2	\$4,600.00 Per Month (12 Months)	\$55,200.00
Additional Work	\$80.00 per Hour	\$30,000.00
Inventory Management	\$80.00 per Hour	\$6,000.00
Grand Total		\$91,200.00