

AMENDMENT NO. 1 TO LEASE AGREEMENT

THIS **AMENDMENT NO. 1 TO LEASE AGREEMENT Contract No. C39690** (“First Amendment”) is entered as of June 8, 2023, by and between CITY OF PALM DESERT, a California municipal corporation (“Lessor”), and the DESERT RECREATION DISTRICT, a California special district (“Lessee”). Lessor and Lessee are sometimes referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, Lessor and Lessee previously entered into that certain Lease Agreement dated January 1, 2020 (the “Lease”), for the lease of the premises more particularly described therein located at 43900 San Pablo Avenue, Palm Desert, California 92260 (the “Premises”);

WHEREAS, Lessee desires to make certain tenant improvements to the Premises as more particularly described on Exhibit A hereto and incorporated herein (the “Additional District Improvements”);

WHEREAS, Lessor will agree to provide a tenant improvement allowance to provide reimbursement to Lessee for the cost of such Additional District Improvements, subject to the limitations set forth herein;

WHEREAS, Lessor finds and determines that providing the tenant improvement allowance to facilitate the construction of the Additional District Improvements will enhance recreational opportunities available to the residents and taxpayers, and the Additional District Improvements will benefit the areas within the City of Palm Desert commonly known as Project Areas Nos. 2 and 3;

NOW THEREFORE, Lessor and Lessee desire to amend the Lease on the terms and conditions as provided in this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby mutually agree as follows:

1. Amendments to Lease. The Lease is hereby amended as follows:
 - a. Term. Section 1.1 of the Lease is hereby amended to read in its entirety as follows:

“1.1 Term. The “Term” of this Lease shall be thirty-five (35) years, commencing on January 20, 2020 (the “Term Commencement Date”) with an option to renew the Lease at the Parties’ mutual discretion for three (3), five (5)-year terms, unless terminated earlier by Lessor or Lessee (subject to terms herein).”
 - b. Additional Rent. A new Section 2.2 is hereby added to the Lease to read as follows:

Contract No. C39690

“2.2 Additional Rent. In addition to the Base Rent, Lessor shall pay to Lessor on each January 1 and July 1, commencing on January 1, 2025, additional rent in the amount necessary to fully amortize the aggregate amount of the Tenant Improvement Allowance which was disbursed by Lessor in semi-annual payments with an interest rate of 3% per annum over the remaining portion of the initial Term (the “Additional Rent”). An estimated Additional Rent payment schedule is attached hereto as Exhibit B. The interest component shall begin to accrue on the outstanding unamortized portion of the Tenant Improvement Allowance on the date that Lessor first disburses such Tenant Improvement Allowance or any portion(s) thereof. On or about December 1, 2024, Lessor shall provide to Lessee in writing the final amortization schedule for the payment of the Additional Rent based on the aggregate amount of the Tenant Improvement Allowance actually disbursed pursuant to this First Amendment, and taking into account the date of each disbursement with respect to calculating the interest component.”

c. Additional District Improvements. The Additional District Improvements described herein shall be included in the meaning of the term “District Improvements” as used in the Lease, and shall be subject to the terms of the Lease, including Exhibit B thereto.

d. Construction and Installation of Additional District Improvements. A new Section 5.5 is hereby added to the Lease to read as follows:

“5.5 Construction and Installation of Additional District Improvements. The Lessee hereby agrees to use commercially reasonable efforts to construct and install the Additional District Improvements on or before the first anniversary of the execution of this First Amendment.”

e. Tenant Improvement Allowance. A new Section 5.6 is hereby added to the Lease to read as follows:

“5.6 Tenant Improvement Allowance.

5.6.1 Amount of Tenant Improvement Allowance. Provided the Lessee is not then in default under the terms of this Lease, the Lessor will make available to Lessee for the construction of the Additional District Improvements, a maximum amount of the sum of Twelve Million Five Hundred Thousand and 00/100 Dollars (\$12,500,000.00) (the “Tenant Improvement Allowance”), to be applied towards all hard and soft costs associated with any alterations, additions, installations, changes, improvements, and/or other renovation included in the Additional District Improvements, including but not limited to actual construction costs, architectural, design, and engineering fees, city building permit fees, and or other consultants (“Tenant Improvements”). If the costs for the Tenant Improvements exceeds the Tenant Improvement Allowance, Lessee shall bear and pay the cost of such excess. If the actual cost of the Tenant Improvements is less than the Tenant Improvement Allowance, the remaining portion of the Tenant Improvement Allowance (after disbursement for all costs incurred) shall be cancelled and no further disbursements of the Tenant Improvement Allowance shall be made.

5.6.2 Disbursement of Tenant Improvement Allowance. Provided the Lessee is not then in default under the terms of this Lease, the Lessor will disburse amounts from the Tenant Improvement Allowance from time to time (but not more than once per

month) following Lessor's receipt of (i) a written request by Lessee requesting a disbursement from the Tenant Improvement Allowance and specifying the amount requested, (ii) copies of invoices, including all reasonable detail relating thereto as may be requested by Lessor, for all work performed for which payment is being requested by Lessee, and (iii) evidence satisfactory to Lessor that Lessee has paid all invoices for which disbursement is being requested from Lessor. All requests for disbursement from the Tenant Improvement Allowance shall be made on or before October 1, 2024.

5.6.3 Reimbursement of Tenant Improvement Allowance. Lessee shall reimburse Lessor for the amount of the Tenant Improvement Allowance disbursed to Lessee through the payment of Additional Rent in accordance with Section 2.2 hereof."

f. Maintenance. Section 6.1.1 of the Lease is hereby amended to read in its entirety as follows:

"6.1.1 Lessee's Obligations. Lessee shall be responsible for minor repairs, herein described as "District Improvements," at Lessee's expense without cost to Lessor, and shall at Lessee's expense maintain in good order, condition, quality, and repair, the Premises (including the Additional District Improvements) and every part thereof, and any and all appurtenances thereto wherever located, and all other repairs, replacements, renewals, and restorations, ordinary and extraordinary, foreseen and unforeseen."

g. Rental Interruption Insurance. A new Section 7.1.2 is hereby added to the Lease to read as follows:

"7.1.2 Rental Interruption Insurance. In addition to the insurance required pursuant to Section 7.1.1 hereof, the Lessee shall procure and maintain, or cause to be procured and maintained, until the Tenant Improvement Allowance has been reimbursed in full pursuant to Section 2.2, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Premised constituting buildings or other improvements as a result of any of the hazards covered in the insurance required by Section 7.1.1. Lessor shall be named an additional insured or loss payee as applicable, and the insurance shall be issued by an insurance company meeting the requirements of Section 7.1.1. Such insurance shall be in an amount at least equal to the maximum Additional Rent coming due and payable during any two consecutive years. Such insurance may be maintained (i) as part of or in conjunction with any other insurance coverage carried by the Lessee (except that it may not be maintained in whole or in part in the form of self-insurance by the Lessee); or (ii) in the form of the participation by the Lessee in a joint powers agency or other program providing pooled insurance. The net proceeds of such insurance, if any, shall be paid to Lessor for application to the payment of the Additional Rent."

h. Abatement. A new Section 10.3 is hereby added to the Lease to read as follows:

"10.3 Abatement Due to Damage or Destruction. The amount of Additional Rent will be abated during any period in which by reason of damage or destruction there is substantial interference with the use and occupancy by the Lessee of the Premises or any portion thereof. The amount of such abatement shall be determined by the Lessee such that

Contract No. C39690

the resulting Additional Rent represents fair consideration for the use and occupancy of the portions of the Premises that are available for use and occupancy. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this First Amendment shall continue in full force and effect and the Lessee waives any right to terminate this First Amendment by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Additional Rent under this Section 10.3 to the extent that the proceeds of hazard insurance, or rental interruption insurance, are available to pay Additional Rent which would otherwise be abated under this Section 10.3.”

2. Representations and Warranties. The Lessee makes the following covenants, representations and warranties to the Lessor as of the date of the execution and delivery of this First Amendment:

a. Due Organization and Existence. The Lessee is a recreation and park district duly organized and validly existing under the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this First Amendment and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Lessee has duly authorized the execution and delivery of this First Amendment.

b. Due Execution. The representatives of the Lessee executing this First Amendment have been fully authorized to execute the same pursuant to a resolution duly adopted by the Board of Directors of the Lessee.

c. Valid, Binding and Enforceable Obligations. This First Amendment has been duly authorized, executed and delivered by the Lessee and constitutes the legal, valid and binding agreement of the Lessee enforceable against the Lessee in accordance with its terms.

d. No Conflicts. The execution and delivery of this First Amendment, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Lessee is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this First Amendment or the financial condition, assets, properties or operations of the Lessee or its properties.

e. Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Lessee or of the voters of the Lessee, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this First Amendment, or the

consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

f. No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the Lessee after reasonable investigation, threatened against or affecting the Lessee or the assets, properties or operations of the Lessee which, if determined adversely to the Lessee or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this First Amendment, or upon the financial condition, assets, properties or operations of the Lessee, and the Lessee is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this First Amendment or the financial conditions, assets, properties or operations of the Lessee or its properties.

3. Effectiveness of Agreement. Except as explicitly modified by this First Amendment, all of the terms and provisions of the Agreement are and remain in full force and effect.

4. Entire Agreement. This First Amendment and the Agreement represent the final and entire agreement between Lessor and Lessee regarding the subject matter hereof and thereof, and may not be contradicted by evidence of prior, subsequent, or contemporaneous oral agreements of the Parties.

5. Modification. No amendment or modification hereto shall be valid and binding unless expressed in writing and executed by both Parties hereto.

6. Authority. Each individual executing this First Amendment on behalf of an entity represents and warrants that he or she is duly authorized to execute and deliver this First Amendment on its behalf.

7. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this First Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by and through their respective authorized representatives, as of the date first above written.

LESSEE:

**DESERT RECREATION DISTRICT, A
California special district**

By: 
B5A2AB6472A44EB...

Name: Kevin Kalman

Title: General Manager

Dated: 9/11/2023

LESSOR:

**CITY OF PALM DESERT,
a California municipal corporation**

By: 
CE3F366233F0406...

Name: L. Todd Hileman

Title: City Manger

Dated: June 8, 2023

Approved as to Form:

CITY ATTORNEY

By: 
3820DDE2EAC84B0...

Name: Isra Shah
Best Best & Krieger LLP

Attest

CITY CLERK

By: 
9063A189723D437...

Anthony J. Mejia, MMC

EXHIBIT A

ADDITIONAL DISTRICT IMPROVEMENTS

Palm Desert Community Center Renovation Project – IFB# 23-05-001-PW

List of Contracts to be Awarded based on lowest responsive and responsible bidders.

Bid Category # ("BC" #)	Bid Category Description	Contract Being Awarded To	Contract Value	Agreement #
1	Selective Building Demo	Demolition Specialist, Inc.	\$ 364,000.00	23-08-014-PDCC
2	Earthwork & Asphaltic Paving	Horizons Construction Company International, Inc.	\$ 213,700.00	23-08-015-PDCC
3	Concrete: Structural & Site	Bravo Concrete Construction Services, Inc.	\$ 379,000.00	23-08-016-PDCC
4	Masonry	NuWay, Inc.	\$ 134,800.00	23-08-017-PDCC
5	Steel: Structural & Miscellaneous	White's Steel, Inc.	\$ 191,500.00	23-08-018-PDCC
6	Rough Carpentry	Core Contracting, Inc.	\$ 575,083.00	23-08-019-PDCC
7	Finish Carpentry & Casework	Stolo Cabinets, Inc.	\$ 122,199.00	23-08-020-PDCC
8	Roofing	Commercial Roofing Systems, Inc.	\$ 634,264.00	23-08-021-PDCC
9	Aluminum & Glazing	M-Tech Glass, Inc.	\$ 131,093.00	23-08-022-PDCC
10	Metal Stud Framing, Insulation, Drywall, & Plaster	Sierra Lathing Co., Inc.	\$ 275,795.00	23-08-023-PDCC

(Continued on Page 2)

Palm Desert Community Center Renovation Project – IFB# 23-05-001-PW

List of Contracts to be Awarded based on lowest responsive and responsible bidders.

Bid Category # ("BC" #)	Bid Category Description	Contract Being Awarded To	Contract Value	Agreement #
11	Finish Flooring	Del's Flooring	\$ 114,427.00	23-08-024-PDCC
12	Ceramic Tile	Continental Marble & Tile Co.	\$ 103,621.00	23-08-025-PDCC
13	Acoustical Ceiling & Treatment	Southcoast Acoustical Interiors, Inc.	\$ 139,447.00	23-08-026-PDCC
14	Painting & Wall Covering	Painting & Décor, Inc.	\$ 157,900.00 Alt. 1 + \$97,300.00	23-08-027-PDCC
15	Fire Sprinkler	JPI Development Group, Inc.	\$ 139,000.00	23-08-028-PDCC
16	Plumbing: Site & Building	Continental Plumbing, Inc.	\$ 293,000.00	23-08-029-PDCC
17	HVAC	Franklin Mechanical Systems, Inc.	\$ 502,500.00	23-08-030-PDCC
18	Electrical & Low Voltage	RDM Electric Co., Inc.	\$ 633,000.00	23-08-031-PDCC
19	General Package	Bogh Engineering, Inc.	\$ 625,700.00	23-08-032-PDCC

(END)

Total Base Bids Received:	\$ 5,730,029.00	\$5,730,029.00
Alternate #1 – BC#14 – Added Cost:	\$ 97,300.00	\$ 97,300.00
Total Bids + Alternate #1:	\$ 5,828,229.00	----- \$5,827,329.00 (\$900.00)

Contract No. C39690

EXHIBIT B

ESTIMATED ADDITIONAL RENT PAYMENT SCHEDULE

* Payments Based on 1/23/23 Construction Estimate - Less City Portion of Estimate

Desert Recreation District - TI Loan Calculator

Loan Details	
Loan amount	\$12,000,000.00
Annual interest rate	3.00%
Loan period in years	30
Start date of loan	1/1/2025

Loan Summary	
Payment Term	Bi-Annually
Number of payments	60
Total interest	\$5,624,743.67
Total cost of loan	\$17,624,743.67

Pmt No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	1/1/2025	\$12,000,000.00	\$380,000.00	\$200,000.00	\$180,000.00	\$11,814,375.71
2	7/1/2025	\$11,814,375.71	\$377,215.64	\$200,000.00	\$177,215.64	\$11,628,287.36
3	1/1/2026	\$11,628,287.36	\$374,424.31	\$200,000.00	\$174,424.31	\$11,441,733.79
4	7/1/2026	\$11,441,733.79	\$371,626.01	\$200,000.00	\$171,626.01	\$11,254,713.84
5	1/1/2027	\$11,254,713.84	\$368,820.71	\$200,000.00	\$168,820.71	\$11,067,226.34
6	7/1/2027	\$11,067,226.34	\$366,008.40	\$200,000.00	\$166,008.40	\$10,879,270.11
7	1/1/2028	\$10,879,270.11	\$363,189.05	\$200,000.00	\$163,189.05	\$10,690,844.00
8	7/1/2028	\$10,690,844.00	\$360,362.66	\$200,000.00	\$160,362.66	\$10,501,946.82
9	1/1/2029	\$10,501,946.82	\$357,529.20	\$200,000.00	\$157,529.20	\$10,312,577.40
10	7/1/2029	\$10,312,577.40	\$354,688.66	\$200,000.00	\$154,688.66	\$10,122,734.56
11	1/1/2030	\$10,122,734.56	\$351,841.02	\$200,000.00	\$151,841.02	\$9,932,417.11
12	7/1/2030	\$9,932,417.11	\$348,986.26	\$200,000.00	\$148,986.26	\$9,741,623.86
13	1/1/2031	\$9,741,623.86	\$346,124.36	\$200,000.00	\$146,124.36	\$9,550,353.63
14	7/1/2031	\$9,550,353.63	\$343,255.30	\$200,000.00	\$143,255.30	\$9,358,605.23
15	1/1/2032	\$9,358,605.23	\$340,379.08	\$200,000.00	\$140,379.08	\$9,166,377.45
16	7/1/2032	\$9,166,377.45	\$337,495.66	\$200,000.00	\$137,495.66	\$8,973,669.11
17	1/1/2033	\$8,973,669.11	\$334,605.04	\$200,000.00	\$134,605.04	\$8,780,479.00
18	7/1/2033	\$8,780,479.00	\$331,707.18	\$200,000.00	\$131,707.18	\$8,586,805.90
19	1/1/2034	\$8,586,805.90	\$328,802.09	\$200,000.00	\$128,802.09	\$8,392,648.63
20	7/1/2034	\$8,392,648.63	\$325,889.73	\$200,000.00	\$125,889.73	\$8,198,005.97
21	1/1/2035	\$8,198,005.97	\$322,970.09	\$200,000.00	\$122,970.09	\$8,002,876.69
22	7/1/2035	\$8,002,876.69	\$320,043.15	\$200,000.00	\$120,043.15	\$7,807,259.60
23	1/1/2036	\$7,807,259.60	\$317,108.89	\$200,000.00	\$117,108.89	\$7,611,153.46
24	7/1/2036	\$7,611,153.46	\$314,167.30	\$200,000.00	\$114,167.30	\$7,414,557.05
25	1/1/2037	\$7,414,557.05	\$311,218.36	\$200,000.00	\$111,218.36	\$7,217,469.16
26	7/1/2037	\$7,217,469.16	\$308,262.04	\$200,000.00	\$108,262.04	\$7,019,888.54
27	1/1/2038	\$7,019,888.54	\$305,298.33	\$200,000.00	\$105,298.33	\$6,821,813.98
28	7/1/2038	\$6,821,813.98	\$302,327.21	\$200,000.00	\$102,327.21	\$6,623,244.22
29	1/1/2039	\$6,623,244.22	\$299,348.66	\$200,000.00	\$99,348.66	\$6,424,178.05

Pmt No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
30	7/1/2039	\$6,424,178.05	\$296,362.67	\$200,000.00	\$96,362.67	\$6,224,614.20
31	1/1/2040	\$6,224,614.20	\$293,369.21	\$200,000.00	\$93,369.21	\$6,024,551.45
32	7/1/2040	\$6,024,551.45	\$290,368.27	\$200,000.00	\$90,368.27	\$5,823,988.54
33	1/1/2041	\$5,823,988.54	\$287,359.83	\$200,000.00	\$87,359.83	\$5,622,924.22
34	7/1/2041	\$5,622,924.22	\$284,343.86	\$200,000.00	\$84,343.86	\$5,421,357.25
35	1/1/2042	\$5,421,357.25	\$281,320.36	\$200,000.00	\$81,320.36	\$5,219,286.35
36	7/1/2042	\$5,219,286.35	\$278,289.30	\$200,000.00	\$78,289.30	\$5,016,710.28
37	1/1/2043	\$5,016,710.28	\$275,250.65	\$200,000.00	\$75,250.65	\$4,813,627.77
38	7/1/2043	\$4,813,627.77	\$272,204.42	\$200,000.00	\$72,204.42	\$4,610,037.55
39	1/1/2044	\$4,610,037.55	\$269,150.56	\$200,000.00	\$69,150.56	\$4,405,938.35
40	7/1/2044	\$4,405,938.35	\$266,089.08	\$200,000.00	\$66,089.08	\$4,201,328.91
41	1/1/2045	\$4,201,328.91	\$263,019.93	\$200,000.00	\$63,019.93	\$3,996,207.95
42	7/1/2045	\$3,996,207.95	\$259,943.12	\$200,000.00	\$59,943.12	\$3,790,574.18
43	1/1/2046	\$3,790,574.18	\$256,858.61	\$200,000.00	\$56,858.61	\$3,584,426.33
44	7/1/2046	\$3,584,426.33	\$253,766.39	\$200,000.00	\$53,766.39	\$3,377,763.10
45	1/1/2047	\$3,377,763.10	\$250,666.45	\$200,000.00	\$50,666.45	\$3,170,583.22
46	7/1/2047	\$3,170,583.22	\$247,558.75	\$200,000.00	\$47,558.75	\$2,962,885.39
47	1/1/2048	\$2,962,885.39	\$244,443.28	\$200,000.00	\$44,443.28	\$2,754,668.32
48	7/1/2048	\$2,754,668.32	\$241,320.02	\$200,000.00	\$41,320.02	\$2,545,930.70
49	1/1/2049	\$2,545,930.70	\$238,188.96	\$200,000.00	\$38,188.96	\$2,336,671.24
50	7/1/2049	\$2,336,671.24	\$235,050.07	\$200,000.00	\$35,050.07	\$2,126,888.63
51	1/1/2050	\$2,126,888.63	\$231,903.33	\$200,000.00	\$31,903.33	\$1,916,581.56
52	7/1/2050	\$1,916,581.56	\$228,748.72	\$200,000.00	\$28,748.72	\$1,705,748.73
53	1/1/2051	\$1,705,748.73	\$225,586.23	\$200,000.00	\$25,586.23	\$1,494,388.81
54	7/1/2051	\$1,494,388.81	\$222,415.83	\$200,000.00	\$22,415.83	\$1,282,500.50
55	1/1/2052	\$1,282,500.50	\$219,237.51	\$200,000.00	\$19,237.51	\$1,070,082.46
56	7/1/2052	\$1,070,082.46	\$216,051.24	\$200,000.00	\$16,051.24	\$857,133.38
57	1/1/2053	\$857,133.38	\$212,857.00	\$200,000.00	\$12,857.00	\$643,651.93
58	7/1/2053	\$643,651.93	\$209,654.78	\$200,000.00	\$9,654.78	\$429,636.77
59	1/1/2054	\$429,636.77	\$206,444.55	\$200,000.00	\$6,444.55	\$215,086.57
60	7/1/2054	\$215,086.57	\$203,226.30	\$200,000.00	\$3,226.30	\$0.00