

**AGREEMENT BETWEEN
THE LIVING DESERT ZOO & GARDENS
AND THE CITY OF PALM DESERT
AS IT RELATES TO FUNDING OF COSTS ASSOCIATED WITH
THE EXPANSION OF EDUCATION PROGRAMS**

THIS AGREEMENT (the "Agreement") is entered into effective on January 9, 2025, by and between the City of Palm Desert ("CITY"), a California charter city ("CITY") and The Living Desert, a California corporation, ("THE LIVING DESERT").

WHEREAS, the CITY is a charter city organized under the laws of the State of California and its charter; and,

WHEREAS, THE LIVING DESERT ZOO & GARDENS owns and operated is one of six accredited private zoos in the United States and operates as a non-profit with a mission to desert conservation through preservation, education, and appreciation. Being they reside within the CITY, they provide an enormous benefit to the residents and visitors of the CITY; and

WHEREAS, the CITY, and the CITY acting as the Palm Desert Redevelopment Agency, has contributed more than 3.7 Million THE LIVING DESERT ZOO & GARDENS since 1992.

WHEREAS, CITY and THE LIVING DESERT ZOO & GARDENS desire to improve promotion of conservation through preservation, education, and appreciation by providing stable funding for programing for the benefit of the community.

NOW, THEREFORE, IT IS AGREED as follows:

1. Purpose. THE LIVING DESERT ZOO & GARDENS will continue to make vital contributions to the quality of life in Palm Desert for the City's residents and visitors through the ongoing provision of outstanding programs, amenities, and attractions that celebrate and educate the public.
2. CITY'S Responsibilities. The CITY commits to provide one million two hundred and fifty thousand dollars (\$1,250,000) in five (5) annual installments of two hundred and fifty thousand dollars (\$250,000) each, the first due and payable upon the mutual execution of this agreement, and the remaining four annual installments due on the annual anniversary dates hereof, provided however, that the city council appropriates annually sufficient funds to pay the installment. The Payment Structure is attached hereto and incorporated herewith in Exhibit "A" to this Agreement.
3. THE LIVING DESERT ZOO & GARDENS'S Responsibilities. In recognition of the CITY's funding commitment in the amount of one million two hundred and fifty thousand dollars, THE LIVING DESERT ZOO & GARDENS will provide certain Programmatic Requirements as detailed in Exhibit "B" attached hereto and incorporated herewith.

4. Term. This Agreement shall be effective as of July 1, 2024, and continue in effect until June 30, 2029, unless sooner terminated in accordance with the termination provisions set forth hereinafter.

5. Unilateral Termination. Despite the provisions that this contract shall be in force until June 30, 2029, this Agreement may be terminated by either party, with or without cause, at any time upon either party giving ninety (90) days' written notice to the other party of said termination. Upon such notice being properly given, this Agreement shall terminate upon the date specified in the written notice.

6. Relationship of Parties. It is understood that the contractual relationship of the THE LIVING DESERT ZOO & GARDENS to the CITY is that of Independent Contractor; THE LIVING DESERT ZOO & GARDENS is not the agent of the CITY, nor an employee of the CITY. CITY shall not direct the manner in which THE LIVING DESERT ZOO & GARDENS constructs the facilities, but THE LIVING DESERT ZOO & GARDENS shall be responsible for the completion of the project. The means by which THE LIVING DESERT ZOO & GARDENS constructs the facilities specified hereunder shall be determined solely by THE LIVING DESERT ZOO & GARDENS. CITY shall exercise no control over the manner and details of performance, the specific hours that any employee of THE LIVING DESERT ZOO & GARDENS may work, who shall be employed by THE LIVING DESERT ZOO & GARDENS or which employee is assigned to any particular function or duties; nor shall CITY provide supplies or tools utilized to accomplish the tasks undertaken by THE LIVING DESERT ZOO & GARDENS. The CITY is not responsible for salary reimbursement or provisions, and grant funds cannot be used to fund any wage, salary or benefits offered by THE LIVING DESERT ZOO & GARDENS.

7. Assignment. This Agreement shall not be assigned or duties hereunder delegated by THE LIVING DESERT ZOO & GARDENS without the written consent of the CITY.

8. Amendment. This Agreement may be amended or modified only by written agreement signed by both parties, and failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel performance of such provision or provisions.

9. Indemnification. THE LIVING DESERT ZOO & GARDENS shall indemnify and hold CITY harmless, and each of its officers, directors, employees, and agents, and each of their heirs, successors, and assigns against, and shall indemnify and hold parties harmless from any and all claims, costs, liabilities, penalties, damages, or expenses of any kind or nature whatsoever, whether based on negligence or strict liability, including, but not limited to court costs, reasonable attorney's fees, and expenses, whether incurred at trial, appellate, or administrative level, or in connection with any required arbitration, which any such indemnified parties may suffer or incur, or to which any of such indemnified parties may be subjected, as a result of or arising out of this Agreement. Such indemnification, however, is subject to CITY and any other indemnified party claiming the right to be indemnified by providing written notice to THE LIVING DESERT ZOO & GARDENS of any such claim for damage under this Agreement within 15 days of receiving notice of such claim.

10. Notice. Any and all notices or other communications required or permitted by this Agreement to be served or given to either party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed or, in-lieu-of personal service, when deposited in the United States mail, first class – postage pre-paid, addressed to CITY and THE LIVING DESERT ZOO & GARDENS as follows:

City of Palm Desert
Attn: L. Todd Hileman
City Manager
73-510 Fred Waring Drive
Palm Desert, CA 92260

The Living Desert Zoo & Gardens
Attn: Allen Monroe
President and CEO
47900 Portola Avenue
Palm Desert, CA 92260

Either party may change its address for purposes of this Agreement by giving written notice of the change to the other party in the manner provided in this paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective authorized officers, effective as of January 9, 2025,

CITY OF PALM DESERT

THE LIVING DESERT ZOO & GARDENS

By: _____
L. Todd Hileman
City Manager

By: _____
Allen Monroe
President and CEO

Attest:

By: _____
Anthony J. Mejia
City Clerk

Approved as to form:

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

City Clerk QC: _____
Contracts QC: _____

EXHIBIT "B"

PROGRAMMATIC REQUIREMENTS

In recognition of the CITY's funding commitment in the amount one million two hundred and fifty thousand dollars, THE LIVING DESERT ZOO & GARDENS will:

1. The City's contributions will also be acknowledged annually in The Living Desert's Honor Roll of Donors, which will be displayed digitally in the new welcome plaza and in signage in the Chase Administration Building. The City's contributions through this agreement will be combined with its previous support of The Living Desert so that the City's cumulative support can be recognized permanently. Cumulative and annual giving are acknowledged each year at special donor events, on signage, and in publications. The City of Palm Desert will receive significant attention, commensurate with the increasing amount of its cumulative support and the location of Palm Desert must be included when promoting the park.
2. Glow in the Park 2025 would be referred to as ***Glow in the Park presented by The City of Palm Desert at The Living Desert Zoo and Gardens.*** This would be a nonexclusive sponsorship with event naming rights as presenting sponsor.
 - Inclusion in select event advertising, which may include select print, outdoor, digital, radio and/or broadcast
 - Public Relations, which may include press releases and other tactics
 - Name included on The Living Desert's Facebook Event details
 - Name/logo on event program and digital screens
 - Name/logo on printed signs
 - Name/logo on website event page
 - Option to purchase bulk tickets at member rate
3. Palm Desert Night at WildLights at The Living Desert Zoo and Gardens. The Living Desert will provide: 500 tickets per year in 2025, 2026, 2027, and 2028 for Palm Desert Night at WildLights. The tickets will be good only for Palm Desert Night at WildLights and are non-transferable. Palm Desert Night will be held on a scheduled WildLights night and will not be exclusive to the City of Palm Desert but will be promoted as Palm Desert Night. Council member/s and/or Mayor are welcome to conduct a proclamation before the event open.