

**AMENDMENT NO. 3 TO THE TO THE PROFESSIONAL CONSULTANT SERVICES
AGREEMENT, A43790 FOR MARKETING SERVICES BETWEEN THE CITY OF PALM
DESERT AND FG CREATIVE**

1. Parties and Date.

This Amendment No. 3 to the made and entered into as of this 28th day of May 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 Services Agreement for Marketing Services, No. A43790" dated July 1, 2022 ("Agreement" or "Contract") for the purpose of retaining the services of retaining the services of Consultant to provide Marketing Services for the Palm Desert Aquatic Center.

2.2 Amendment. The City and FG Creative entered into Amendment No.1 to extend the term for an additional year performance period of July 1, 2023, to June 30, 2024. The Parties have heretofore entered into Amendment No. 1 dated July 1, 2023

2.3 Amendment. The City and FG Creative entered into Amendment 2. to establish an updated scope of service and increased compensation during period July 1, 2023 through June 30, 2024. The Parties have heretofore entered into Amendment No. 2 dated March 28, 2023.

2.4 Amendment. The City and FG Creative desire to amend the Agreement to **extend the term, update scope of service, and increase compensation for third year of contract, July 1, 2024 through June 30, 2025.**

2.5 Amendment Authority. This Amendment No. **3** is authorized pursuant to Section **3.6.14; Modification** of the Agreement.

3. Terms.

3.1. Section Compensation. Section 3.3.1 of the Agreement is hereby amended in its entirety to read as follows:

3.3.1 Compensation. 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 One Hundred Thousand and Zero Cents (\$100,000.00) without written approval of the City Council or City Manager, as applicable.

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

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

3.1.2 Term. The term of this Agreement shall be from July 01, 2024, to June 30, 2025, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

“Exhibit 3.1.2 Term is hereby deleted in its entirety and replaced with Exhibit 3.1.3 Term attached hereto and incorporated herein by reference.”

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. **3**, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. **3**. From and after the date of this Amendment No. **3**, whenever the term “Agreement” or “Contract” appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. **3**.

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. **3**.

3.4 Severability. If any portion of this Amendment No. **3** 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. **3** 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. 3 TO THE PROFESSIONAL MARKETING
SERVICES AGREEMENT BETWEEN THE CITY OF PALM DESERT
AND FG CREATIVE**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 3 to the Professional Marketing Services Agreement 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

EXHIBIT "B-1"
SCHEDULE OF SERVICES

- 1. STRATEGY & ACCOUNT MANAGEMENT (\$21,600)**
BILLED AS A MONTHLY RETAINER ACROSS 12 MONTHS (JULY TO JUNE).
- 2. MEDIA BUYING (\$59,800)**
BILLED AS A PASS-THROUGH EXPENDITURE.
- 3. PUBLIC RELATIONS/SOCIAL MEDIA (\$18,600)**
BILLED AS A MONTHLY RETAINER ACROSS 12 MONTHS (JULY TO JUNE).

EXHIBIT "C-2"
COMPENSATION

Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in Exhibit "B" to this Contract, which is attached hereto and incorporated herein by reference.

Pass-through Expenditures – Consultant shall be reimbursed for pass-through media buy expenditures in an amount not to exceed fifty-nine thousand, eight hundred dollars (\$59,800).

Renewal - In the event that this Agreement is renewed pursuant to Section 3.1.2, 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.