

PUBLIC ART AGREEMENT

THIS PUBLIC ART AGREEMENT dated this ___ day of _____, 20__ between the City of Palm Desert, a municipal corporation, hereinafter referred to as “City” and _____, hereinafter referred to as “Owner/Developer” is made with respect to the following:

A. Owner/Developer is the owner of property located in the City of Palm Desert, County of Riverside, State of California, described as _____, as shown by Map, Book___ in the office of the County Recorder, County of Riverside. The street address of the parcel is: _____, Palm Desert, California.

B. Owner/Developer has heretofore applied for and been permitted to construct a project for which the establishment of specific public art is required and in order to comply with the City’s requirements, the art should be placed in the project and the Owner/Developer has continuing indemnification and maintenance responsibilities as hereinafter set forth.

C. In consideration of the approval process and the installation of such art, this indemnification and hold harmless agreement executed by the Owner/Developer, the City proposes to issue all permits for the installation of same.

D. Now, therefore, the City and Owner therefore agree as follows:

NOW, THEREFORE, the parties hereto agree as follows:

1. City has approved the development of the project of Owner/Developer that includes the installation of artwork in said project, which artwork shall remain the ownership of Owner/Developer.

2. So long as artwork remains in place, Owner/Developer agrees to indemnify and hold harmless the City, its officers, agents, employees and representatives against any and all losses, actions, proceedings and/or claims, including attorneys’ fees and all other costs of defense that were made against the City, its officers, agents,

employees and representatives in connection with or arising from the installation, the existence or maintenance of such artwork. Owner/Developer's obligations under this paragraph are currently running with the property shall be binding upon owners, successors in interest and assigns.

3. The Owner/Developer has submitted to the City clerk a Certificate of Public Liability Insurance in a form acceptable to the City manager naming the City and its officials and employees as additional insureds and with limits as specified by the City manager. The Owner/Developer shall cause the insurance to remain in effect for the life of the project.

4. Owner/Developer shall be responsible for the maintenance, repair, upkeep and replacement of such artwork as required by the City. This maintenance responsibility shall include the responsibility for all damage to the area or the artwork that may result from construction or the item being installed on said property. The property shall be maintained in a clean, safe and attractive manner. If City, in its sole discretion, determines that the artwork is not being maintained in an acceptable condition, City through its Code Enforcement Department shall notify Owner/Developer in writing that they have fifteen (15) days to correct said deficiency. If the deficiencies are not corrected in the manner and within the time set forth, the City may make such corrections at the expense of the Owner/Developer. Upon completion of said maintenance and/or repair City shall send Owner/Developer a demand letter by first class mail to reimburse City the cost of maintenance with repairs within fifteen (15) days. In the event there is a failure to reimburse the City within such time frame, City shall be entitled to specially assess Owner/Developer of all costs incurred in maintaining or repairing such artwork, any cost of collection, including attorneys' fees and other court costs, and lien the property.

5. This Agreement shall be binding upon and inure to the benefit of all executors, administrators, successors, assigns, agents, employees, attorneys and representatives of their respective parties hereto. In the event any provision or disagreement shall be held to be invalid, the same shall not affect any of the terms of the remainder of the Agreement. In the event of any controversy including the dispute

between the parties, arising out of or relating to this Agreement, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs.

6. This Agreement is made in and shall be governed by the laws of the State of California

7. This Agreement shall be notarized and recorded in the County of Riverside, State of California.

CITY:

CITY OF PALM DESERT, a municipal corporation

By: _____
_____, Mayor

APPROVED AS TO FORM:

By: _____
DAVID J. ERWIN, CITY ATTORNEY

ATTEST:

RACHELLE D. KLASSEN, CITY CLERK

OWNER/OPERATOR:

By: _____

By: _____

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 20__ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (seal)

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 20__ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (seal)
