

SITE LEASE

THIS LEASE is dated as of the 20th day of June, 1988, by and between MISSION SPRINGS WATER DISTRICT, a county water district duly organized and existing under the laws of the State of California (the "District"), and the CITY OF DESERT HOT SPRINGS, a municipal corporation organized and operating under the laws of the State of California (the "City").

R E C I T A L S

WHEREAS, District owns certain unimproved property located in the County of Riverside, State of California; and

WHEREAS, City desires to construct certain facilities upon said property and to use said property for recreational purposes; and

WHEREAS, District and City desire to enter into this Lease in order to accomplish said purposes for the public benefit and welfare:

C O V E N A N T S

NOW, THEREFORE, for and in consideration of the premises and covenants and conditions hereinafter contained, the parties agree as follows:

ARTICLE I

DEFINITIONS; EXHIBITS; RULES OF CONSTRUCTION

SECTION 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"City" means the City of Desert Hot Springs.

"District" means the Mission Springs Water District.

"Event of Default" means one or more events of default as defined in Article X hereof.

"Facilities" mean the improvements to be constructed by City on the site for recreational purposes.

"Net Proceeds" means any insurance proceeds or condemnation award paid with respect to the site and/or facilities remaining after payment therefrom of all expenses incurred in the collection thereof.

"Permitted Encumbrances" means, at any particular time: (a) liens for taxes and assessments not then delinquent, or which the City, pursuant to the Site Lease, may permit to remain unpaid; (b) the Site Lease; (c) utility access and other easements and rights-of-way, restrictions and exceptions that the District certifies will not interfere with or impair the Site or Facilities; and (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property affected thereby for the purpose for which it was acquired or held by the District.

"Site" means the real property upon which the Facilities are to be constructed as more particularly described on Exhibit "A".

SECTION 1.02. Exhibits. The following exhibits are attached to this Agreement and made a part hereof:

(a) Exhibit A - a description of the Site to be leased to and improved by City.

(b) Exhibit B - draft development/construction plans for the Site.

SECTION 1.03. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include plural numbers and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

SECTION 1.04. Reference to Lease. The terms "hereby", "hereof", "hereto", "hereunder" and any similar terms, as used in this Lease, refer to this Lease.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.01. Representations, Covenants and Warranties of District. District represents, covenants and warrants for the benefit of City as follows:

(a) The District is a county water district duly organized and existing under the Constitution and laws of the State of California.

(b) The Constitution and laws of the State of California authorize the District to enter into this Lease.

(c) Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the terms and conditions hereof conflicts with our results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is not a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon the Site.

(d) The District has duly authorized and executed this Lease in accordance with the laws of the State of California.

(e) The District has good and marketable fee simple title to the Site.

SECTION 2.02. Representations, Covenants and Warranties of City. City represents, covenants and warrants for the benefit of District as follows:

(a) The City is a municipal corporation duly organized and existing under the laws of the State of California; has power to enter into this Lease; is possessed of full power to own and hold real and personal property and to lease and sell the same; and has duly authorized the execution and delivery of this Lease.

(b) Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the terms and conditions hereof nor the consummation of the transactions contemplated hereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any

agreement or instrument to which City is now a party or by which City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon the Site.

(c) Except as provided herein, City will not assign this Lease or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.02.

(d) Pursuant to judgment entered in Judgment Book 135, at page 066, in Case No. INDIO 46118, the District has heretofore complied with Sections 54220 et seq. of the Government Code, with respect to the lease of the Site.

ARTICLE III

LEASE

SECTION 3.01. Lease. The District leases to the City, and the City leases from the District, on the terms and conditions set forth herein and subject only to Permitted Encumbrances, the Site more specifically described on Exhibit "A".

SECTION 3.02. Term. The term of this Lease shall commence as of the date hereof and shall remain in full force and effect for such date to and including October 1, 2027, unless such term is extended or earlier terminated as hereinafter provided.

SECTION 3.03. Rental. The City shall pay to District for rental hereunder the sum of One Dollar (\$1.00), on or before October 1st of each calendar year for the term of this Lease and any extension or renewal thereof.

SECTION 3.04. Purposes. The City shall use the Site solely for the purposes specified as follows:

Construction, maintenance and operation of Facilities appropriate or ancillary to recreational purposes, uses and programs of particular benefit to low and moderate income families.

SECTION 3.05. Termination of Lease. The City agrees, upon termination of this Lease, to quit and surrender the Site in the same good order and conditions as the same was in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent Facilities existing upon the Site at the time of the termination of this Lease shall remain thereof and title thereto shall vest in the District.

SECTION 3.06. Name of Park. Prior to the commencement of construction of the Facilities, the City agrees to take official action to name the Site as follows:

MISSION SPRINGS PARK

SECTION 3.07. Signs. Prior to commencement of construction of any Facilities, the City shall erect, at its cost, a permanent and appropriately sized sign entitled "Mission Springs Park" on the Site. The form of sign and location shall be approved by the District prior to installation thereof.

During the term of the Lease, the sign shall be maintained in good order and repair by the City.

SECTION 3.08. Participation by Boys and Girls Club and Little League. The City agrees to meet and confer with representatives of the Boys and Girls Club of Desert Hot Springs and Little League of Desert Hot Springs in order to ascertain and, to the extent reasonable, to accommodate their recreational requests in the construction of Facilities, pursuant to Article V.

ARTICLE IV

QUIET ENJOYMENT AND RIGHT OF ENTRY

SECTION 4.01. Quiet Enjoyment. The District covenants and agrees that it will not take any action to prevent the City from having quiet and peaceable possession and enjoyment of the Site during the term hereof and will, at the request of the City, and at the District's cost, to the extent that it may lawfully do so, join in any legal action in which the City asserts its right to such possession and enjoyment.

SECTION 4.02. Right of Entry. The District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

ARTICLE V

FACILITIES

SECTION 5.01. Construction of Facilities. From and after execution of this Lease, City shall be entitled to construct Facilities upon the Site, at its sole cost, as City may deem necessary to fulfill the purposes specified in Section 3.04.

SECTION 5.02. Approval by District. All Facilities constructed on the Site by City and all major modifications thereto shall be subject to prior written approval by District, which approval shall not be unreasonably withheld.

SECTION 5.03. Title to Facilities. During the term of this Lease, title to all Facilities constructed on the Site by City shall vest with the City.

SECTION 5.04. Draft Development Plans. The draft development/construction plans submitted by the City are attached hereto as Exhibit "B". The District has reviewed and hereby approves such plans, particularly with regard to conformance with Section 3.08 of this Lease.

ARTICLE VI

MAINTENANCE

SECTION 6.01. Maintenance and Utilities. All maintenance and repair of the Site and Facilities shall be the responsibility of the City and the City shall pay for, or otherwise arrange for the payment of, any necessary utility services supplied to the Site and Facilities, all costs of

operation of the Site and Facilities and all costs of repair and replacement of the Facilities resulting from ordinary wear and tear or want of care on the part of City. City will operate, maintain and preserve, or cause to be operated, maintained and preserved, the Site and Facilities in good repair and working order.

SECTION 6.02. Payment of Taxes. City will pay or cause to be paid all taxes, assessments and other governmental charges, if any, that may be levied, assessed or charged upon the Site or Facilities or any part thereof, or as assessed upon the District in connection with the Site or Facilities, promptly as and when the same shall become due and payable; provided that City shall not be required to pay any such tax, assessment or charge, if the validity thereof shall concurrently be contested in good faith by appropriate proceedings, and if City shall set aside, or cause to be set aside, reserves deemed by it to be adequate with respect thereto. Furthermore, City, upon commencement of any proceedings to foreclose the lien of any such tax, assessment or charge, will forthwith pay, or cause to be paid, any such tax, assessment or charge, unless contested in good faith as aforesaid. City will not allow the Site or Facilities or any part thereof, to be sold for taxes, assessments or other charges whatsoever, or to be forfeited therefor. Nothing herein contained shall be deemed to impose any liability to pay taxes, assessments or charges where none is imposed by

law.

SECTION 6.03. Other Liens. City shall keep the Site and Facilities and all parts thereof free from judgments, from mechanics' and materialmen's liens (except those mechanics' and materialmen's liens arising from construction of all or a portion of the Facilities) and, except as to Permitted Encumbrances, from all liens, claims, demands and encumbrances of whatsoever nature or character, to the end that the Site and Facilities may at all times be maintained and preserved. City shall keep the Site and Facilities free from any claim or liability which, in the judgment of District (and its determination thereof shall be final), might impair or impede the operations of Facilities; provided, however, that City shall not be required to pay any such liens, claims or demands if the validity thereof shall concurrently be contested in good faith by appropriate proceedings, and if City shall set aside or cause to be set aside reserves deemed by it to be adequate with respect thereto. Furthermore, City upon the commencement of any proceedings to foreclose the lien of any such charge or claim, will forthwith pay or cause to be paid any such charge or claim unless contested in good faith as aforesaid. District, at its option (after first giving City ten (10) days written notice to comply therewith and failure of City or its assigns to so comply within the 10-day period) may defend against any and all actions or proceedings in which the validity of this Lease may be questioned, or may pay or

compromise any claim or demand asserted in any such actions or proceedings; provided that, in defending against such actions or proceedings or if paying or compromising such claims or demands, District shall not, in any event, be deemed to have waived or released City from liability for or on account of any of its covenants and warranties contained herein, or from its liability hereunder to defend the validity of this Lease and to perform such covenants and warranties.

ARTICLE VII

INSURANCE

SECTION 7.01. Public Liability Insurance. City shall maintain or cause to be maintained, throughout the term of this Lease, a comprehensive general and public liability insurance policy or policies against direct or contingent loss or liability for damages for personal injury, death or property damage occasioned by reasons of the construction or operation of the Site or Facilities. The policy or policies shall provide coverage in the following minimum amounts: comprehensive general and public liability insurance with a total coverage of not less than \$1 Million combined single limit or bodily injury, personal injury and property damage including umbrella excess liability.

SECTION 7.02. Workers' Compensation Insurance. City shall maintain or cause to be maintained, throughout the term of this Lease, Workers' Compensation Insurance to cover all persons employed in connection with the construction or operation of the

Site and Facilities who are not otherwise covered and to cover full liability under the Workers' Compensation Insurance and Safety Act in force in the State of California, or any act hereinafter enacted as amendatory thereof or supplemental thereof or in lieu thereof. Such insurance shall be issued by a responsible carrier authorized under the laws of the State of California to insure employers against such liability based upon death or claims made by, for or on behalf of any person incurring or suffering injury or death during or in connection with the construction or operation of the Site and Facilities.

SECTION 7.03. Insurance and Indemnification. The City maintains an insurance program according to which the City assures that structures on City-owned or City-leased property is insured. Said program is administered in the best interests of the City and its citizens.

The City hereby holds the District harmless and indemnifies the District with respect to any damages or liability that may be incurred by the District as a result of any negligent act by the City or its employees.

SECTION 7.04. Form of Insurance Policies; Delivery.

(a) All policies of insurance required by this lease shall provide that all Net Proceeds thereunder shall be payable to City. The policies shall permit the City to adjust, collect and receive all monies which may become due and payable under any such policies, to compromise any and all claims thereunder and to

apply the Net Proceeds of such insurance as provided in this lease. All policies of insurance required by this Lease shall provide that City and District shall be given not less than thirty (30) days notice of any intended cancellation thereof or reduction of the coverage provided thereby.

(b) City shall deliver, or cause to be delivered, to District within thirty (30) days of policy renewal, a schedule setting forth the insurance policies then in force pursuant to this Lease, the names of the insurers which have issued the policies, the amounts thereof and the property and risks covered thereby. If so requested in writing by District, City shall deliver, or cause to be delivered to District, duplicate originals or certified copies of each insurance policy described in such schedule; provided that delivery of the insurance policies under the provisions of this Section shall not confer responsibility upon District as to the sufficiency of coverage or amounts of such policies.

SECTION 7.05. Application of Net Proceeds of Insurance. Any Net Proceeds of any insurance required by this Lease relating to the damage to or destruction of any part of the Site or Facilities which is collected by City shall be deposited by City in a special fund to be held in trust and shall be applied and disbursed for the repair, reconstruction or replacement of the damaged or destroyed portion of the Site or Facilities to at least the same good order, repair and condition

as it was prior to the damage or destruction, insofar as the same may be accomplished by the use of the Net Proceeds.

ARTICLE VIII

DISCLAIMER OF WARRANTIES; USE OF SITE AND FACILITIES

SECTION 8.01. Disclaimer of Warranties. District makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by City of the Site or any other representation or warranty with respect to the Site. In no event shall District be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or use of the Site.

SECTION 8.02. Use of Site and Facilities. City will not use, operate or maintain the Site or Facilities improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease. City shall provide all permits and licenses, if any, necessary for the operation of the Site and Facilities. In addition, City agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Site and Facilities) with all laws of all jurisdictions in which its operations involving the Site or Facilities may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Site or Facilities; provided, however, that

City may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of District, adversely affect the estate of District in and to the Site or its interest or rights under this Lease.

ARTICLE IX

ASSIGNMENT, SUBLEASING AND INDEMNIFICATION

SECTION 9.01. Assignment and Subleasing and Permits by City. Subject to prior consent of the District which shall not be unreasonably withheld, the City may sublease, assign and/or issue permits for the use of all or any part of the Site and/or Facilities. Upon default by City, the District may collect rent from such subtenants, assignees or occupants and retain such amounts collected, but no such collection shall be deemed a waiver of any Agreement, term, covenant or condition hereof, or an acceptance of such subtenants, assignees or occupants, or a substitution of such subtenants, assignees or occupants as lessees under this Lease, or a release of City from the performance of the agreements, terms, covenants and conditions of this Lease.

SECTION 9.02. Assignment and Subleasing by District. This Lease and the obligations of City may be assigned or reassigned and the Facilities transferred to any successor selected by district. Furthermore, District may lease the Site and Facilities in an Event of Default.

SECTION 9.03. Release and Indemnification Covenants.

City shall indemnify, protect and hold District harmless from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising from or as the result of the entering into of this Lease, the ownership of the Site or Facilities, the acquisition, installation, use, operation, condition, purchase or delivery of the Site or Facilities or any accident in connection with the operation, use, condition or possession of the Site or Facilities resulting in damage to property or injury to or death to any person including, without limitation, any claim alleging latent and other defects, whether or not discoverable by District or City; any claim for patent, trademark or copyright infringement; and any claim arising out of strict liability in tort. The indemnification arising under this Section shall continue in full force and effect during the term of this Lease or the termination of this Lease for any reason. City and District mutually agree to promptly give notice in writing to each other of any claim or liability hereby indemnified against after learning thereof.

District and its directors, officers, agents and employees shall not be liable to City or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Site or Facilities. City, to the extent permitted by

law, shall indemnify and hold District and its directors, officers, agents and employees harmless from, and defend each of them against, any and all claims, liens and judgments for death of or injury to any person or damage to property whatsoever occurring in, on or about the Site or Facilities, and, to the extent permitted by law, any extra ordinary reasonable attorneys' fees and expenses incurred in connection with litigation against District challenging or questioning the validity of this Lease or any of the obligations of City hereunder.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.01. Events of Default Defined. The following shall be "Events of Default" under this Lease and the terms "Events of Default" and "default" shall mean, whenever they are used in this Lease, with respect to the Site and Facilities, any one or more of the following events:

(a) Failure by City to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to City by District, unless District shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, District will not unreasonably withhold its consent to an extension of such time if

corrective action is instituted by City within the applicable period and diligently pursued until the default is corrected; or

(b) A court having jurisdiction in the premises shall enter a decree or order for relief with respect to City in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of City or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) days; or

(c) City shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or (similar official) of City or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

SECTION 10.02. Remedies on Default. Upon the happening and continuation of any of the Events of Default specified in Section 10.01 hereof, District may exercise any and

all remedies available pursuant to law or equity or granted pursuant to this Lease.

SECTION 10.03. Agreement to Pay Attorneys Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of monies or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party, in an amount to be determined by a court of competent jurisdiction.

SECTION 10.04. Remedies Not Inclusive. No remedy herein or by law conferred upon or reserved to District is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and every remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, may be exercised without exhausting and without regard to any other remedy conferred or by any law.

SECTION 10.06. Status Quo. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, then, and in every such case, City and District shall be restored to its

and their former position and rights and remedies as if no such suit, action or proceedings had been brought or taken.

ARTICLE XI

ADMINISTRATIVE PROVISIONS

SECTION 11.01. Preservation and Inspection of Documents. All documents received by City or District under the provisions of this Lease shall be retained in their respective possessions and shall be subject at all reasonable times to the inspection of the other party and its assigns, agents and representatives, any of whom may make copies thereof.

SECTION 11.02. Parties of Interest. Nothing in this Lease, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than City and District any rights, remedies or claims under or by reason of this Lease or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Lease contained by or on behalf of City or District shall be for the sole and exclusive benefit of City and District.

SECTION 11.03. No Recourse Under Agreement. All covenants, stipulations, promises, agreements and obligations of the parties contained in this Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any member, officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for any claim under this

Lease against any member, officer, employee or agent of the parties.

SECTION 11.04. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid:

If to District: Mission Springs Water District
 66575 Second Street
 Desert Hot Springs, CA 92240
 Attention: General Manager

If to City: City of Desert Hot Springs
 11-711 West Drive
 Desert Hot Springs, CA 92240
 Attention: City Manager

The parties, by notice given hereunder, may designate different persons or addresses to which subsequent notices, certificates or other communications will be sent.

SECTION 11.05. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon City and District and their respective successors and assigns.

SECTION 11.06. Severability. If any one or more of the covenants, stipulations, promises, agreement or obligations provided in this Lease on the part of City or district to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein

contained and shall in no way affect the validity of the other provisions of this Lease.

SECTION 11.07. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Lease, nor shall they affect its meaning, construction or effect.

SECTION 11.08. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

SECTION 11.09. City and District Representatives. Whenever under the provisions of this Lease the approval of City or District is required or City or District are required to take some action at the request of the other, such approval of such request may be given for City by the City Manager and for District by the General Manager, and any party shall be authorized to rely upon any such approval or request.

SECTION 11.10 Further Assurances. City and District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequacies or errors or intended so to be or for carrying out the expressed intention of this Lease.

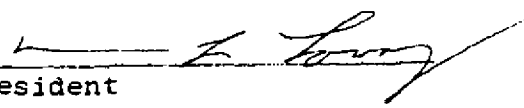
SECTION 11.11. Assignment. All rights and remedies of District under this Lease, including the right to enforce the remedies contained herein, may be assigned and subassigned without restriction.

SECTION 11.12. Waiver by City. The City waives the benefits of Subsections 1 and 2 of Section 1932 of the California Civil Code, but such waiver shall not limit any of the rights of City under the terms of this Lease.


SECTION 11.13. Option to Renew. The City is hereby granted an option to renew for an additional term of forty (40) years or until October 1, 2067 on the same terms and conditions set forth herein. The City shall notify the District in writing at least 60 days prior to the termination of lease of its intent to exercise said option.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized officers as of the date first above written.

MISSION SPRINGS WATER DISTRICT
(the "District")

By: 
President

ATTEST:

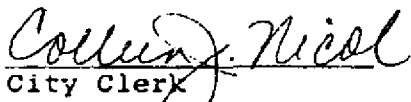

Secretary

(SEAL)

CITY OF DESERT HOT SPRINGS
(City)

By: 
Mayor

ATTEST:


City Clerk

(SEAL)