

CITY OF COACHELLA

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made as of October 14, 2020 by and between THE CITY OF COACHELLA, a California municipal corporation (the "Lessor"), and COACHELLA BAR, a corporation (the "Lessee"), with reference to the following facts:

RECITALS

A. Lessor is the owner of certain real property located at 1515 Sixth Street, in the City of Coachella, County of Riverside, Assessor Parcel Number (APN) 778-062-001, described in more detail in attached Exhibit "A" incorporated herein by this reference (the "Property"); and

B. Lessee desires to lease from Lessor the Property referenced in more detail in the attached Exhibit "A" for purposes of operating and managing a restaurant/bar business; and

C. Lessee will be responsible for all tenant improvements the leased space; and

D. Lessor will provide economic development incentives that include subsidizing lease rates until all the cost of tenant improvements are recovered and waive all permitting/planning fees for the first year of operation; and

E. Lessor will not be liable or responsible for any damage or injury occurring on the Premises.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Recitals. Lessor and Lessee acknowledge the Recitals set forth above which are incorporated herein by this reference together with the Exhibits attached hereto.

2. Leasehold. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rent and upon the conditions set forth herein. Lessee accepts the Premises, including the appurtenant improvements, structures, and facilities, if any, in "AS IS" condition.

3. Premises. The Premises described in Exhibit "A" amounts to an area of approximately 2,024 square feet. Upon execution of this Lease, Lessor grants to Lessee the right to survey the Premises (the "Survey") and such Survey, if performed, shall replace Exhibit "A" as the description of the Premises and shall be attached and incorporated herein as Exhibit "B." If performed, the Survey attached as Exhibit "B" shall control the description of the Premises thereafter.

4. Term of Lease.

4.1 Term. The original term of the Lease shall be for a eight (8) year period commencing on November 1, 2020 and terminating on November 1, 2028 (the "Term"). If Lessee decides to make tenant improvements to the Premises for which a City Building Permit is issued, then the Lessee's rent shall be waived until such time as all tenant improvement costs have been recovered by the Lessee; all tenant improvement credits must be preapproved and invoices provided to allow for rental credit. All tenant improvements shall be approved by Lessor pursuant to Section 11.

5. Rent.

5.1 Rent. During the Term of this Lease, Lessee shall pay to Lessor as rent the sum of Two Thousand Twenty Four Dollars (\$2,024.00) per month.

The Lessee will pay the monthly rent to the Lessor in advance of the fifteenth (15) day of each month starting November 15th and continuing throughout the term of this Lease.

5.2 Where to Pay Rent. All rent shall be paid to Lessor at the address specified below in Section 22.

6. Utilities, Maintenance and Insurance.

6.1 Utilities. Lessee shall make all arrangements for and shall pay for all utilities and services furnished to the Premises or used by Lessee on the Premises, including, without limitation: cable, electricity, telephone, internet, water, sewer and trash removal services as described in Exhibit "C", and Lessee shall pay for any and all charges for establishment or connection of utility services to the Premises.

6.2 Maintenance. Lessee shall provide all maintenance and repairs, at Lessee's sole cost and expense, to keep the Premises in good order and condition, including, without limitation, all maintenance of fencing, gates, landscaping, all improvements existing at the commencement of this Lease, and any improvements installed or constructed by Lessee during the term of this Lease.

6.3 Insurance. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only. Lessee shall carry and maintain, during the entire term hereof, at Lessee's sole cost and expense, the following types of insurance in the amounts specified and in the form provided for in this section:

- a. Public Liability and Property Damage. Broad-form comprehensive public liability insurance with limits of not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) each occurrence, insuring against any and all liability of Lessee with respect to the Premises or arising out of the maintenance, use or occupancy thereof, and property damage liability insurance with a limit of not less than One Million Dollars (\$1,000,000) each accident, or One Million Dollars (\$1,000,000) combined single limit.
- b. Property Insurance. Lessee shall obtain and maintain in force a policy or policies of insurance in the name of Lessee, with any loss payable to Lessee,

and any lender of Lessor insuring against loss or damage to the improvements on the Premises, including, without limitation, any improvements installed or constructed by Lessee. The amount of such insurance shall be equal to the full insurable replacement cost of such improvements, as the same shall exist from time to time, or the amount required by any lender of Lessor, but in no event more than the commercially reasonable and available insurance value thereof. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risk of direct loss or physical damage (except the perils of flood and earthquake unless required by a lender of Lessor). If such insurance coverage has a deductible clause, the deductible amount shall not exceed the amount permitted by a lender of Lessor. In the event any casualty results in damage to the improvements on the Premises which are the property of Lessor (and not constructed or installed by Lessee in accordance with the provisions hereof), Lessee shall either (i) use the proceeds of insurance to cause the restoration of such property of Lessor or (ii) pay or cause payment to Lessor or any lender of Lessor in an amount of the proportionate share of insurance proceeds attributable to damage to such property of Lessor.

- c. Delivery of Certificate of Insurance. Lessee shall deliver to Lessor certificates of insurance evidencing the insurance procured by Lessee, which certificates shall name Lessor as an additional insured together with any lender of Lessor. The Certificates of Insurance shall be delivered by Lessee to Lessor at the time of the execution of the Lease and shall be monitored regularly.
- d. Notice of Cancellation. All insurance policies shall contain a provision that such policies shall not be canceled or terminated without thirty (30) days' prior notice from the insurance company to Lessor. Lessee agrees that on or before thirty (30) days prior to expiration of any insurance policy, Lessee will deliver to Lessor written notification in the form of a receipt or other similar document from the applicable insurance company that said policy or policies have been renewed, or deliver certificates of coverage from another good and solvent insurance company for such coverage.

7. Janitorial Services. The Lessee agrees to provide at its sole cost and expense janitorial services for the leased Premises.

8. Security Alarm Monitoring Services. The Lessee agrees to provide at its sole cost and expense security alarm monitoring services for the leased Premises.

9. Use. Lessee shall use and occupy the Premises for purposes of operating and managing a restaurant/bar business in the old water billing/old fire station building. Lessee shall not use the Premises for the purposes of storing, manufacturing or selling any inherently dangerous substance, chemical, thing, or device.

10. Hazardous Substances and Hazardous Materials.

10.1 Defined. For purposes of this Lease, the term "Hazardous Substances" shall be as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq., and any regulations promulgated pursuant thereto, and as used to define "Hazardous Wastes" in the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and any regulations promulgated thereto, or as may be identified or defined by any federal, state or local law or regulation.

10.2 Prohibition and Indemnity. Lessee shall not (either with or without negligence) cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. In all events, Lessee shall indemnify and hold Lessor harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees) (collectively "Claims") from the presence or release of any Hazardous Substances or Hazardous Wastes on the Premises if caused by Lessee or persons acting under Lessee. The foregoing indemnity shall apply regardless of whether or not any such Claims are contributed to by the negligence or fault of the indemnified party, by the violation of any law, statute or regulation by the indemnified party, and even if the indemnified party is strictly liable therefore. However, in the event of such contributory negligence or other fault of the indemnified party, then the indemnified party shall not be indemnified hereunder in the proportion that the indemnified party's negligence or other fault caused any such Claims. Lessee shall execute such affidavits, representations or other documents from time to time as Lessor may reasonably request concerning Lessee's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Premises. This paragraph shall survive the termination of this Lease.

11. Improvements.

11.1 Consent of Lessor. Lessee shall not construct or make any installations, additions, improvements or alterations in or to the Premises, without the prior written consent of Lessor.

11.2 Lessee to Pay Improvement Cost. All installations, additions, improvements, or alterations constructed or made to the Premises, with the consent of Lessor, shall be made at the sole cost and expense of Lessee.

11.3 Removal of Improvements. All installations, additions, improvements, or alterations constructed or made to the Premises by Lessee shall remain Lessee's personal property and, notwithstanding principles of law applicable to real property improvements, Lessee's installations, additions, improvements or alterations shall not be deemed improvements to Lessor's Premises and may be removed from the Premises by Lessee upon termination of this Lease in the sole discretion of Lessee. Notwithstanding the foregoing, upon termination of this Lease, Lessor may require Lessee to remove some or all of Lessee's installations, additions, improvements and alterations, at Lessee's sole cost and expense. Further, upon termination of this Lease and following removal of Lessee's property, the Premises shall be restored to a condition reasonably satisfactory to Lessor, at Lessee's expense. Any of Lessee's property, as aforesaid, not removed from the Premises upon termination of this Lease shall become the property of Lessor.

11.4 Mechanic's Liens. Lessee agrees to pay promptly for all labor or materials furnished for any work of construction, improvements, alterations, additions, repairs or maintenance performed by Lessee in connection with the Premises, and to keep and to hold the Premises free, clear,

and harmless of and from all liens that could arise by reason of any such work.

11.5 Art Murals. The water billing building currently has three (3) art mural installations that will be kept in their current location. The Lessee will not be allowed to remove or modify the art murals in any way. The Lessee will be financially responsible if the art murals become damaged during the tenant improvements or the construction phase. If damaged, the art murals shall be restored to a condition reasonably satisfactory to Lessor, at Lessee's expense

12. Termination. Within ninety (90) days prior to expiration of the Term, either Lessor or Lessee may terminate this Lease, without cause, by serving the other party with thirty (30) days' prior written notice of such termination (a "Notice of Termination"). Upon termination of this Lease, Lessee shall return the Premises in good condition and repair to the reasonable satisfaction of Lessor.

13. Signs. Lessee shall not install any signs on the Premises without the prior written consent of Lessor.

14. Lessor's Consent Required. Lessee shall not assign, mortgage, or hypothecate this Lease in whole or in part, nor sublet all or any part of the Premises, without the prior written consent of Lessor in each instance, which consent may be granted or denied in Lessor's sole discretion.

15. Assignment and Subleasing. Lessee shall not assign, mortgage, or hypothecate this Lease in whole or in part, nor sublet all or any part of the Premises, without the prior written consent of Lessor in each instance, which consent may be granted or denied in Lessor's sole discretion. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. In the event that Lessor's written consent is granted, Lessee shall pay all expenses in connection with such assignment and Lessee shall remain primarily obligated to Lessor for performance of all provisions of this Lease.

16. Use of Premises by another Party. The Premises may not be used by any person or party other than the Lessee, its officers, employees, and agents.

17. Use of Premises by City. The Premises may be accessed and used at any time, as needed, by any City staff, for purposes of inspecting the building for maintenance and repairs of various systems.

18. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

19. Indemnification. To the extent permitted by law, Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the Premises or any part thereof in connection with this Lease, unless caused by the gross negligence or willful misconduct of Lessor. Lessee agrees to indemnify and hold Lessor harmless from any claims for damages which arise in connection with any such occurrence. Lessor agree to indemnify and hold Lessee harmless from any claims for damages which arise from the gross negligence or willful misconduct of Lessor in connection with the Premises or this Lease. Said indemnifications shall include indemnity from any reasonable costs or fees which the indemnified party may incur in defending any such claim. The provisions of this Section shall survive termination of this Lease.

20. Lessor's Remedies on Default. If Lessee defaults in the payment of rent

or defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within thirty (30) days after the giving of such notice (or if the default is of a nature that it cannot be completely cured within such period, if Lessee does not commence such cure within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than thirty (30) days' notice to Lessee. On the date specified in such notice, the term of this Lease shall terminate and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects.

21. Waiver. No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

22. Notices. Any notice, request, demand, or other communication which either party may or is required to give, shall be in writing and shall be delivered in person or sent to the address set forth herein below by registered or certified mail, return receipt requested with postage prepaid, by commercial overnight courier, with written verification of receipt, or by telecopy. A notice shall be deemed given: (a) when delivered by personal delivery (as evidenced by the receipt); (b) three (3) days after deposit in the mail if sent by registered or certified mail or (c) one (1) business day after having been sent by commercial overnight courier as evidenced by the written verification of receipt. Either party may change its address for receiving notice by written notice given to the other in accordance with the provisions of this Notices section.

To Lessee: Coachella Bar
85995 Grapefruit Blvd
Coachella CA 92236

To Lessor: City of Coachella
53-990 Enterprise Way
Coachella, CA 92236
Attn: City Manager

23. No Agency/Employment. In performing the terms of this Lease, the Lessor and Lessee each remain an autonomous and separate entity, solely responsible for its own actions and those of its officers, employees, agents and volunteers. No relationship of employment, agency, partnership or Joint venture is to be created by or implied from this Lease.

24. Time of Essence. Time is of the essence of this Lease.

25. Entire Agreement. This instrument constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

26. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first written above.

LESSEE:

COACHELLA BAR

California Corporation

By: _____
Nick Meza

LESSOR:

THE CITY OF COACHELLA

California Municipal Corporation

By: _____
William B. Pattison Jr., City Manager

Attest:

By: _____
Angela M. Zepeda
City Clerk - City of Coachella

Approved as to Form:

By: _____
Best, Best & Krieger LLP
City Attorney

EXHIBIT "A"

DESCRIPTION OF PREMISES

The City of Coachella (Lessor) owns real property located at 1515 Street, in the City of Coachella, County of Riverside, State of California. The Old Water Billing/Old Fire Station building is part of the City Hall and Veterans Memorial Park Property, identified by the following assessor parcel number: 778-062-001. The Lessee will only occupy the highlighted area, which included the 2,024 square foot building and outdoor space around the building (small water fountain and paved area).

Depiction/Sketch

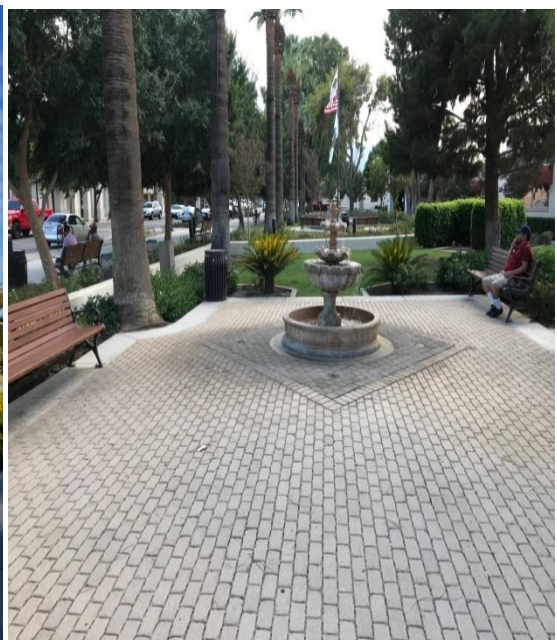


EXHIBIT "B"

SURVEY OF LEASED PREMISES

No survey was completed by the Lessee.

EXHIBIT "C"

Lessor's real property is located at 1515 Sixth Street. The property is approximately 2,024 square feet.

Lessee shall establish accounts for the property under Lessee's name for all utilities. Lessee will maintain current all utility billing for the property.