



City Council Staff Report

DATE: DECEMBER 16, 2009 CONSENT CALENDAR

SUBJECT: AMENDMENT NO. 1 TO AGREEMENT NO. A1079 WITH THE PALM SPRINGS UNIFIED SCHOOL DISTRICT EXTENDING THE LEASE FOR TWO YEARS FOR PROPERTY LOCATED AT 1300 EAST BARISTO ROAD

FROM: David H. Ready, City Manager

BY: Sharon Heider, Director of Parks and Recreation

SUMMARY

This action would amend Agreement #1079, dated August 7, 1974, to extend the use of the Palm Springs Unified School District property, located at 1300 E. Baristo Road, Palm Springs, for the Plaza Racquet Club for a period of 2 years.

RECOMMENDATION:

- 1) Approve Amendment No. 1 to Agreement No. A1079 with the Palm Springs Unified School District extending the lease to August 6, 2012, at the rate of \$46,502 annually, for property located at 1300 East Baristo Road.
- 2) Authorize the City Manager to execute all necessary documents.

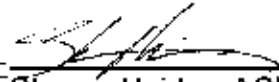
STAFF ANALYSIS:

The Plaza Racquet Club operates a public tennis facility for the City of Palm Springs on Palm Springs Unified School District property located at 1300 E. Baristo Road. The property has been under lease by the City of Palm Springs since August 7, 1974. The original Lease and Agreement expires in August 2010, and this amendment will extend the terms of the Lease and Agreement for an additional 2 years at an annual cost of \$46,502.00, and allow the continued use by the Plaza Racquet Club for public tennis.

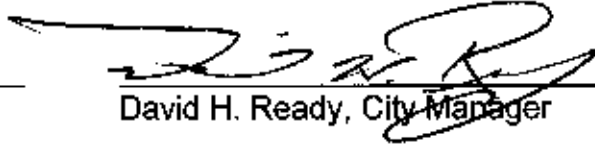
ITEM NO. 2.11.

FISCAL IMPACT:

The fiscal impact of this extension will be funded in the Fiscal Year 2010-11 Budget at \$23,251, and the balance to be provided by the terms of the use agreement.



Sharon Heider, ASLA
Director of Parks and Recreation



David H. Ready, City Manager

Attachments: Amendment No. 1 to Lease

**AMENDMENT NO. 1 TO LEASE AND AGREEMENT BETWEEN PALM SPRINGS
UNIFIED SCHOOL DISTRICT AND CITY OF PALM SPRINGS**

This Amendment ("Amendment") to the Lease and Agreement ("Agreement") by and between Palm Springs Unified School District ("District") and the City of Palm Springs ("City") dated August 7, 1974 is hereby made and entered into as of this ____ day of _____, 2009 and shall become effective as of the 7th day of August, 2010 ("Effective Date") as follows:

WHEREAS, the District and City entered into the Agreement for purposes of allowing the City to lease the District's property located on Baristo Road, Palm Springs, CA ("Property"); and

WHEREAS, the City desires to extend the term of the Agreement; and

WHEREAS, the District is willing to allow for such extension, subject to certain terms and conditions set forth in this Amendment.

NOW, THEREFORE, DISTRICT AND CITY HEREBY AGREE AS FOLLOWS:

1. **Lease and Agreement.** The District and City represent and warrant that the aforementioned Agreement is the true, correct and complete Agreement and that there have been no written or oral amendment(s) to the Agreement. All capitalized terms not otherwise defined herein shall have the meanings given in the Agreement. A copy of the Agreement is attached and incorporated as Exhibit "A."

2. **Term.** The term of the Agreement is extended for two (2) additional years from the expiration of the current renewal term. The Agreement shall terminate on August 6, 2012 unless the parties mutually agree to extend the Agreement. After the first year, the District or City may terminate the Agreement upon ninety (90) days written notice to the other party.

3. **Rent.** Section 3 of the Agreement is revised as follows:

The rent for the leased premises shall be at the annual rate of Forty Six Thousand Five Hundred and Two Dollars (\$46,502.00), payment to be made on or before July 1st of each year.

4. **Assignment or Sublease.** The City may assign or sublet this Agreement or any right or privilege the City might have under this Agreement, so long as it obtains the prior written consent of District, which consent maybe withheld and/or conditioned at the discretion of the District. In lieu of the termination or expiration of the Agreement, City shall assign this agreement to a third party, at District's discretion.

5. **Binding Effect; Partial Invalidity.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. If any provision of this Amendment shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment or the Agreement.

6. **Full Force and Effect; No Other Amendments.** The Agreement is hereby modified with respect to the terms set forth herein, and any other portion thereof as necessary to implement the foregoing. Except as specifically set forth in this Amendment, the language of the Agreement shall remain unmodified and in full force and effect as executed by the parties.

7. **Counterparts.** This Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

8. **Inconsistencies.** In the event of any inconsistency between the terms of this Amendment and those of the Agreement, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Amendment, in duplicate, as of the Effective Date set forth above, and agree that this Amendment shall constitute binding modifications to the Lease.

PALM SPRINGS UNIFIED SCHOOL DISTRICT

By: _____
Name: Mr. James Novak
Its: Assistant Superintendent of Business Services

CITY OF PALM SPRINGS

By: _____
Name: Mr. David H. Ready Esq., Ph.D.
Its: City Manager

ATTEST:

James Thompson
City Clerk

Exhibit "A"
[insert copy of Agreement]

P.S. Unified School lease 7 acres
to City for Tennis Complex
AGREEMENT #1879 (Original 8-7-74)
MS #2238, 8-7-74

LEASE AND AGREEMENT

PALM SPRINGS UNIFIED SCHOOL DISTRICT of RIVERSIDE COUNTY hereby leases to the CITY OF PALM SPRINGS the real property hereinafter described upon the following terms and conditions:

1. The real property herein leased consists of approximately seven (7) acres of unimproved land in the City of Palm Springs, County of Riverside, State of California, described as follows:

The Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 14, T.4S, R.4E, S.E.E. & M., in the City of Palm Springs, County of Riverside, State of California.

Excepting therefrom that portion of said Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 14, described as follows:

Beginning at the Southeast corner of said Southwest Quarter of the Northeast Quarter of the Southeast Quarter; thence Northerly along the Easterly line thereof, a distance of 461.00 feet; thence Westerly, parallel with the South line of said Southwest Quarter of the Northeast Quarter of the Southeast Quarter, a distance of 220.00 feet; thence Southerly, parallel with the Easterly line of said Southwest Quarter of the Northeast Quarter of the Southeast Quarter, a distance of 461.00 feet to the Southerly line of said Southwest Quarter of the Northeast Quarter of the Southeast Quarter; thence Easterly, along said Southerly line, a distance of 220.00 feet to the Point of Beginning.

2. The term of this lease shall be three (3) years commencing on July 1, 1974. The City shall have the option to renew said lease for an additional term of three (3) years, which shall be deemed automatically exercised upon the payment of the rent for the last year of the original term, unless concurrently therewith the City shall notify the District in writing that it does not desire to renew. The City shall have the option in like manner to renew for successive periods of three (3) years, but this lease shall not continue past a total of thirty-six (36) years. All renewals shall be upon the same terms and conditions as the original term.

3. The rent for the leased premises shall be at the annual rate of One Hundred Fifty Dollars (\$150.00), payment to be made on or about December 15 of each year.

4. The premises leased shall be used exclusively for recreational purposes. The City shall have the right to construct and maintain buildings on the premises, which shall at all times belong to the City. Such buildings may be removed by the City on the expiration of this lease or the term of the last renewal, and if not so removed within 90 days of the expiration date, shall become the property of the District. Such buildings and any other facilities installed by the City shall be for recreational purposes. Any improvements made by City shall conform to City standards and requirements of law. They shall be maintained in a safe and sightly condition consistent with other buildings owned by the City.

5. City shall hold the District harmless from all liability for personal injury or property damage arising out of the use or possession of the premises by the City. In addition, the City shall have the District named as an additional insured on its public liability policy for liability claims arising from use of the premises herein demised.

6. It is understood that the City intends to use the property as a public tennis complex, possibly including enclosed handball courts. The City may enter into concession or other similar agreements with other individuals to manage the operations of the complex.

7. The City may require the construction of portions of three streets for its use of this property. If the City makes such a determination, the City agrees to construct the portions of the streets at its sole expense. The District agrees to grant necessary street rights of way in the event the street construction is required by the City, as follows:

- (a) A width of 30 feet along the length of the Westerly property line.
- (b) A width of 40 feet along the length of the Southerly property line.
- (c) A width of 40 feet along the length of the Northerly property line.

8. District will cooperate with the City in the providing of necessary easements as may be required by utility companies to service their lines and equipment which may be located on the site.

9. Except as herein provided, the District shall have no other responsibility to City except to insure to the City the quiet enjoyment of the premises.

10. This lease shall inure to the benefit of and be binding upon the lawful successors and assigns of the respective parties.

EXECUTED AT Palm Springs, California on August 7, 1974.

ATTEST:

By Oliver S. Marshall
Deputy City Clerk

CITY OF PALM SPRINGS, CALIFORNIA

By Donald A. Harbaugh
City Manager

REVIEWED & APPROVED _____

PALM SPRINGS UNIFIED SCHOOL DISTRICT
OF RIVERSIDE COUNTY

By Thomas J. Ryan
Superintendent of Schools

APPROVED BY THE CITY COUNCIL

BY RES. NO. 2236 8/7/74
M.O.