

## **ATTACHMENT A: PROGRAM AGREEMENT**

THIS PROGRAM AGREEMENT [Agreement] is entered into on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ [Effective Date], by and between the City of Maricopa [City], and \_\_\_\_\_ [Participant], owner (or tenant) of property located at \_\_\_\_\_ [Property], with regard to Participant’s participation in the “City of Maricopa – Façade Improvement Program” [Program].

### **RECITALS**

WHEREAS, the City desires to stimulate revitalization of the Heritage District by addressing deteriorating property conditions and encouraging improvements that will increase the attractiveness of the area for economic development as identified in the Program Guidelines; and

WHEREAS, investment on façade improvements visible to persons from the public rights-of-way will beautify the subject properties and surrounding area, create a positive visual impact, increase the volume of business by making the subject properties and business more attractive, and stimulate private investment; and

WHEREAS, the City has authorized Economic Development Department Staff to manage and administer the Program on behalf of the City including, without limitation, authorizing the Economic Development Director to execute this Agreement with the Participant thereby establishing the terms, conditions, and requirements for participation in the Program in accordance with the Guidelines for the Program approved by the City Council [Program Guidelines]; and

WHEREAS, the Review Committee has approved the Participant and the proposed project for participation in the Program, subject to the terms and conditions of the Program Guidelines and this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and the mutual obligations of the parties as herein expressed, the City and Participant agree as follows:

### **AGREEMENT**

#### **I. DEFINITIONS**

The following terms shall have the following meanings whenever used in this Agreement, except where the context clearly indicates otherwise. Any ambiguity as to the intended meaning or scope of the terms set forth below will be resolved solely by the City through its designated representative.

- a. “Completion Date”** means the date that the contractor has finished the Project pursuant to the design and architectural plans approved by the Review Committee, and to the satisfaction of the Building Safety Division (where applicable) and the Participant, as evidenced by final payment to the contractor from the Participant.

- b. **“Economic Development Director”** means the City’s designated representative responsible for managing and administering the Program on behalf of the City.
- c. **“Owner Consent”** means a Certification of Ownership and Consent to be executed by the owner of the Property, if the Participant is not the owner, in the form attached hereto and incorporated as Exhibit “A”.
- d. **“Participant”** means the person applying for a reimbursement for façade improvements on the Property and determined eligible by the Review Committee to participate in the Program. Participant may be the owner of the Property or a tenant who has obtained written consent of the Property owner to participate in the Program and to proceed with the improvements identified within this Agreement.
- e. **“Program Guidelines”** means the “City of Maricopa – Façade Improvement Program Guidelines” approved by the Maricopa City Council that govern the Program and this Agreement. The Program Guidelines are attached hereto and incorporated herein as Exhibit “B”. All terms not defined herein shall have the meanings ascribed thereto in the Program Guidelines.
- f. **“Project”** means the façade improvements on the subject Property as proposed by the Participant and approved by the Review Committee.
- g. **“Project Completion Date”** means the date agreed upon by the Participant and the Review Committee when the approved Façade Improvement Program project will be completed by.
- h. **“Property”** means the subject property owned or occupied by the Participant on which the improvements shall be completed. The Property is located within the City of Maricopa’s Heritage District boundaries as defined in the City of Maricopa Redevelopment District Area Plan.
- i. **“Reimbursement”** means the total amount of City funding provided to the Participant, with limits established in the Program Guidelines and individual project funding set by the Review Committee.
- j. **“Review Committee”** means the body formed by the City to review and approve Project applications and prepare total dollar amount to be allotted to each Project.
- k. **“Total Allowable Expenses”** means the actual costs incurred, paid for, and documented by the Participant and approved by the Review Committee for the proper performance of the improvement work required by the plans and specifications and/or architectural/design renderings for the Project.
- l. **“Total Project Expenditure”** means the total actual Project costs incurred by and paid for by the Participant including, without limitation, the costs of construction, materials, and supplies.

## II. CERTIFICATE OF OWNERSHIP

If Participant is not the fee owner of the Property, Participant shall, prior to the City's execution hereof, obtain and provide to the City from the fee owner of the Property his/her/its approval in writing for Participant to participate in the Program and proceed with the Project. The Owner consent form is provided as Exhibit "A" herein.

## III. TERMS OF REIMBURSEMENT

- a. The Participant hereby agrees to comply with all terms and conditions of the Program as set forth in the Program Guidelines (See Exhibit "B").
- b. The Reimbursement paid by the City pursuant to this Program shall not be made until receiving all documentation of work completed on the Project as set forth in the Program Guidelines. Reimbursement shall not be issued until Participant has made all payments for said work to contractors, material suppliers, and vendors. The Participant is responsible for all payments to the contractors, material suppliers, and vendors, and for providing true and correct copies of unconditional lien releases to the City.
- c. The Participant agrees to maintain the improvements for a five (5) year period from the date of receipt of final reimbursement from the City. Should removal or significant alteration of the façade improvements occur, as determined by the City in its sole discretion, the City has the right to seek repayment of up to one hundred percent (100%) of the Reimbursement according to the following schedule: one hundred percent (100%) if occurring within the first (1<sup>st</sup>) year and reducing by twenty percent (20%) increments, on an annual basis, such that at the end of five (5) years, the entire Reimbursement amount will be deemed forgiven. All payments are due and payable to the City within thirty (30) calendar days.

## IV. PARTICIPANT'S RESPONSIBILITIES

- a. In preparation for submission of an Application, the Participant shall obtain a minimum of three written bids from qualified, licensed contractors to perform the Project. Once the Participant awards a bid to a qualified, licensed contractor, the Participant shall provide to the Economic Development Department information on the awarded bid and rejected bids. If a Maricopa-based contractor is not sought, written evidence must be provided that documents why a Maricopa-based contractor was not considered and provided in the original submission. The lowest bid must be accepted unless the Participant finds the lowest bid is non-responsive to their Project.
- b. The Participant shall be responsible for hiring a licensed contractor to complete the Project. The Economic Development Department may require submission of proof of the State License issued to the selected contractor.
- c. The Participant shall be responsible for submitting to the Economic Development Department a certificate of insurance from each contractor performing reimbursable work on the Project. Each certificate must include general liability coverage of at least \$1,000,000, worker's compensation coverage (if applicable) of at least \$1,000,000, and

name the City of Maricopa, and its respected elected officials, officers, employees, agents and representatives as additional insureds.

- d. The Participant must issue a notice to proceed to the contractor within thirty (30) calendar days of receipt of the Notice to Proceed issued by the City to the Participant.
- e. The Participant shall be fully responsible for managing, monitoring, and scheduling the construction of the Project, for ensuring compliance with the payment of prevailing wages (if applicable), and for ensuring that all improvements are completed properly and in conformance with the approved Project.
- f. The Participant shall be fully responsible for making all payments to contractors, suppliers, vendors and/or third parties and for ensuring that all contractors, subcontractors, suppliers, vendors and/or third parties are paid in full.
- g. The Participant acknowledges and agrees that the improvements to be constructed in anticipation of a Reimbursement, constitutes the construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. The Participant shall comply with all Federal, State and City requirements.
- h. The Participant shall be responsible for ensuring approved Project is completed by project Completion Date agreed upon by the Participant and the City detailed in Section VI of this agreement.
- i. Upon completion of the Project and following Building Safety Division approval (if required), the Participant shall notify the Economic Development Department and call for an inspection of the Project. The Economic Development Department will arrange for the Property to be inspected.
- j. No reimbursement will be made until all improvements have been completed to the specifications approved by the Review Committee and have passed inspection from first the City Building Safety Division, if required, and then by the Review Committee.

## V. THE CITY'S RESPONSIBILITIES

- a. Economic Development Department Staff shall review the bids for construction submitted by the Participant and prepare a submission to the Review Committee that approves Project applications.
- b. Economic Development Department Staff shall issue the Notice to Proceed to the Participant upon his/her receipt of this Agreement fully executed by the Participant and any other required or requested documentation.
- c. Within a reasonable time after Participant notifies City of the completion of the Project, Economic Development Department Staff will ensure the Building Safety Division, if required, and the Review Committee has inspected the improvements to verify that they were completed in accordance with the approved project scope.

- d. Economic Development Department Staff shall review Participant’s request and accompanying documents for Reimbursement. If all the terms, conditions, and obligations of Participant under this Agreement and the Program Guidelines have been met, Economic Development Department Staff shall issue the Reimbursement in the amount approved by the Review Committee, within the maximum allowable limits set forth in the Program Guidelines.

**VI. TIME OF PERFORMANCE**

The Participant shall complete the Project by the agreed upon project completion date between the Participant and the City in order to remain eligible for receipt of the Reimbursement. Failure to complete the Project by the agreed upon project completion date below will result in the immediate termination of this Agreement. Notice of such termination shall not be required. Requests for additional time and extensions in project completion time will be granted, but only if submitted in writing prior to the expiration of the agreement.

**Project Completion Date:** \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_ **City Signature:** \_\_\_\_\_

**VII. AMOUNT OF REIMBURSEMENT**

The total amount of the Reimbursement made by the City pursuant to the terms and conditions of this Agreement shall not exceed the amount approved by the Review Committee and the program maximum allowable limits. Reimbursement will only be made for allowable expenses as set forth in the Program Guidelines.

**Approved Rebate Amount:** \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_ **City Signature:** \_\_\_\_\_

**VIII. INSURANCE**

- a. The Participant shall be responsible for submitting to the Economic Development Department its certificate of insurance for the Property and the Project. Each certificate must include general liability coverage of at least \$1,000,000, worker’s compensation coverage (if applicable) of at least \$1,000,000, and name the City of Maricopa, and its respected elected officials, officers, employees, agents and representatives as additional insureds.
- b. The Participant shall be responsible for submitting to the Economic Development Department a certificate of insurance from each contractor performing reimbursable work on the Project. Each certificate must include general liability coverage of at least \$1,000,000, worker’s compensation coverage (if applicable) of at least \$1,000,000, and name the City of Maricopa, and its respected elected officials, officers, employees, agents and representatives as additional insureds.

- c. All deductibles on any policy shall be the responsibility of the primary holder of such policy and shall not be the responsibility of the City of Maricopa, and its respected elected officials, officers, employees, agents and representatives.
- d. Participant shall provide evidence of required insurance to the Economic Development Department before execution of this Agreement.

#### IX. OBLIGATION TO REFRAIN FROM DISCRIMINATION

- a. Participant agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work.
- b. Participant agrees that, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.

#### X. NO AGENCY CREATED

Participant shall at all times during the term of this Agreement retain Participant's status as independent contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. Participant's subcontractors or employees shall under no circumstances be considered or held to be employees or agents of City, and City shall have no obligation to pay or withhold state or federal taxes or provide workers' compensation or unemployment insurance for or on behalf of them or Participant. Any provisions of this Agreement that may appear to give the City any right to direct the Participant concerning the details of the obligations under this Agreement, or to exercise any control over such obligations, shall mean only that the Participant shall follow the direction of the City concerning the end results of the obligations.

#### XI. OWNERSHIP OF DOCUMENTS

All documents, including, without limitation, designs, plans, bids, bills and receipts, prepared and submitted to the City pursuant to this Agreement (including any duplicate copies) shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of such documents and all incidental rights thereto.

#### XII. INDEMNIFICATION AND HOLD HARMLESS

To the maximum extent permitted by law, the Participant agrees to and shall defend, indemnify and hold harmless the City, and their respective officers, officials, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including expert witness fees, reasonable attorneys' fees, and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following, provided Participant shall not be responsible for (and such indemnity shall

not apply to) any negligence or willful misconduct of the City, or their respective officers, officials, active employees, contractors or agents:

- a. The development, construction, marketing, use or operation of the Property by the Participant, its officers, contractors, subcontractors, agents, employees or other persons acting on Participant's behalf [Indemnifying Parties];
- b. The displacement or relocation of any person from the Property as the result of the development of the Project on the Property by the Indemnifying Parties;
- c. Any plans or designs for the Project prepared by or on behalf of Participant including, without limitation, any errors or omissions with respect to such plans or designs;
- d. Any loss or damage to the City resulting from any inaccuracy in or breach of any representation or warranty of Participant, or resulting from any breach or default by Participant, under this Agreement; and
- e. Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the improvements by the City, and their respective officers, officials, employees, contractors or agents.

The foregoing indemnity shall continue to remain in effect after the Completion Date or after the earlier termination of this Agreement, as the case may be.

### XIII. DUTY TO DEFEND

The Participant further agrees that the hold harmless agreement in Article XII, and the duty to defend the City, and their respective officers, officials, employees, contractors and agents, require the Participant to pay any costs that the City may incur which are associated with enforcing the hold harmless provisions, and defending any claims arising from obligations or services under this Agreement. If the City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to obligations or services under this Agreement, the Participant agrees to pay the City's attorney's fees, expert witness fees, and all costs.

### XIV. COMPLIANCE WITH LAW

The Participant agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property and construction of the Project, as well as operations conducted on the Property. The Economic Development Department will not issue any Reimbursement to the Participant if there is violation of any law, ordinance, code, regulation, permit or Program Guideline.

### XV. TERMINATION

If Participant shall fail to cure any Event of Default upon notice and within the time for cure provided for in XVII below, the City may, by written notice to the Participant, terminate this

Agreement. Such termination shall trigger the “Repayment of Pro Rate Share of Reimbursement” defined in XVII.

Participant may not terminate this Agreement without the express written consent of the City.

**XVI. NOTICES**

All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt showing date and time of delivery, addressed to the following parties, or to such other address as any party may, from time to time, designate in writing in the manner as provided herein:

To City: City of Maricopa  
Economic Development Department  
PO Box 610  
Maricopa, AZ 85139  
Telephone: (520) 316-6990  
Email: [economicdevelopment@maricopa-az.gov](mailto:economicdevelopment@maricopa-az.gov)

To Participant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service to the addresses above, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

**XVII. DEFAULT; REMEDIES; DISPUTE RESOLUTION**

a. Notice of Default.

In the event of failure by either party to substantially perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein, provided that such non-defaulting party has first provided to the defaulting party a written notice of default in the manner required by Article XVI hereof identifying with specificity the nature of the alleged default and the manner in which said default may be satisfactorily cured.

b. Cure of Default

Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure, correct, or remedy such default within such thirty (30) business day period, and shall continuously and diligently prosecute such cure, correction or remedy to completion. For purposes of this Agreement, “business days” shall refer to Monday through Thursday, inclusive, other than State, Federal, or other locally declared holidays.

c. City Remedies; Repayment of Pro Rata Share of Reimbursement

In the event of a default by Participant of the terms of this Agreement that has not been cured within the timeframe set forth in Paragraph B above, the City, at its option, may terminate this Agreement or may institute legal action in law or in equity to cure, correct, or remedy such default, enjoin any threatened or attempted violation, or enforce the terms of this Agreement. In the event of a default by Participant that occurs after the City has disbursed the Reimbursement, the “Pro Rata Reimbursement Amount” commencing on the date the City disbursed the final Reimbursement, shall become immediately due and payable.

The “Pro Rata Reimbursement Amount” shall be the amount obtained by multiplying the original Reimbursement amount times the percentage obtained by dividing the number of months remaining in the five (5) year period that commences on the day final Reimbursement is made, and ends on the 5<sup>th</sup> anniversary by 60, which is the total number of months in the period (12 months x 5 years). For example, if the amount of the Reimbursement is \$15,000, and the breach occurs after 3 years and two months (38 months), Participant shall repay \$5,500.

All payments shall be made in lawful money of the United States. Payments shall be made to City at the address set forth in Article XVI herein or at such other address as City may direct pursuant to notice delivered to Participant in accordance with Article XVI.

d. Participant’s Exclusive Remedies.

The parties acknowledge that the City would not have entered into this Agreement if it were to be liable in damages under, or with respect to, this Agreement or any of the matters referred to herein, including the Project, except as provided in this Article. Accordingly, Participant shall not be entitled to damages or monetary relief for any breach of this Agreement by the City or arising out of or connected with any dispute, controversy, or issue between Participant and the City regarding this Agreement or any of the matters referred to herein, the parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Participant’s sole and exclusive judicial remedies.

XVIII. ARBITRATION.

In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree to attempt to settle the dispute by nonbinding arbitration before commencement of litigation. The arbitration shall be held under the rules of the American Arbitration Association. The matter in dispute shall be submitted to an arbitrator mutually selected by Participant and the City. In the event that the parties cannot agree upon the selection of an arbitrator within seven (7) days, then within three (3) days thereafter, the City and Participant shall request the presiding judge of the Superior Court in

and for the County of Pinal, State of Arizona, to appoint an independent arbitrator. The cost of any such arbitration shall be divided equally between the City and Participant. The results of the arbitration shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the final decision of the arbitrator.

#### XIX. APPLICABLE LAW AND VENUE

The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

#### XX. CONFLICT OF INTEREST

- a. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his/her personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested.
- b. The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this Agreement.
- c. The Participant warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

#### XXI. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Participant, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Participant or successor or on any obligation under the terms of this Agreement.

#### XXII. BINDING EFFECT

This Agreement, and the terms, provisions, promises, and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

### XXIII. AUTHORITY TO SIGN

The Participant hereby represents that the persons executing this Agreement on behalf of Participant have full authority to do so and to bind Participant to perform pursuant to the terms and conditions of this Agreement.

### XXIV. COUNTERPARTS

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

### XXV. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

- a. This Agreement and the Exhibits and references incorporated into this Agreement express all understandings of the parties concerning the matters covered in this Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- b. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Participant, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Participant.

### XXVI. NON-ASSIGNMENT

The Participant shall not assign the obligations under this Agreement, nor any monies due or to become due, without the Economic Development Department's prior written approval, and Participant and Participant's proposed assignee's execution of an assignment and assumption agreement in a form approved by the City. Any assignment in violation of this paragraph is grounds for immediate termination of this Agreement, at the sole discretion of the Economic Development Department. In no event shall any assignment create a contractual relationship between the City, and any assignee until such assignment and assumption agreement has been fully executed.

### XXVII. NO THIRD PARTY BENEFICIARIES

Only the Parties may enforce this Agreement. The Parties do not intend through this Agreement to confer enforceable rights on any non-party and do not intend to create any third party beneficiaries to this Agreement.

### XXVIII. UNDOCUMENTED WORKERS

Participant understands and acknowledges the applicability to it of the Immigration Reform and Control Act of 1986. Under the provisions of A.R.S. §41-4401, Participant hereby warrants to the City that the Participant and each of its subcontractors ("Subcontractor") will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Immigration Warranty"). A breach of the Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Participant to penalties up to and including

termination of this Agreement at the sole discretion of the City. The City retains the legal right to inspect the papers of any Participant or Subcontractor employee who works on this Agreement to ensure that the Participant or Subcontractor is complying with the Immigration Warranty. Participant agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Participant and any of subcontractors to ensure compliance with Immigration Warranty. Participant agrees to assist the City in regard to any random verification(s) performed.

Neither the Participant nor any Subcontractor shall be deemed to have materially breached the Immigration Warranty if they establish that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214, Subsection A.

The provisions of this paragraph must be included in any contract the Participant enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor.

**XXIX. SCRUTINIZED BUSINESS OPERATIONS:** In signing this Agreement, Participant certifies pursuant to ARS §35-391 that they do not have scrutinized business operations in the Sudan and pursuant to ARS §35-393 that they do not have scrutinized business operations in Iran.

**XXX. NO WAIVER**

No failure of either the City or the Participant to insist upon the strict performance by the other of any term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any term or condition of this Agreement, shall constitute a waiver of any such breach or of such term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every condition and term hereof shall continue in full force and effect.

IN WITNESS WHEREOF, the City, and the Participant have signed this Agreement as of the dates set opposite their signatures.

"CITY"

Dated: \_\_\_\_\_

By: \_\_\_\_\_ (signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

“PARTICIPANT”

Dated: \_\_\_\_\_

By: \_\_\_\_\_ (signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENTS:**

1. Exhibit A – Certification of Ownership and Consent
2. Exhibit B – Program Guidelines



45145 W. Madison Ave.  
P.O. Box 610  
Maricopa, AZ 85139  
Ph: 520.568.9098  
Fx: 520.568.9120  
[www.maricopa-az.gov](http://www.maricopa-az.gov)

Return this form to:  
City of Maricopa  
Economic Development Department  
Attn: Michael Winer  
PO Box 610  
Maricopa, AZ 85139

For Official Use Only	
Date Received:	Received By:

## **EXHIBIT A: CERTIFICATION OF OWNERSHIP AND CONSENT**

This CERTIFICATION OF OWNERSHIP AND CONSENT (this “Consent”) is executed by the undersigned (“Owner”) at the request of \_\_\_\_\_ (Tenant).

1. Owner is the owner in fee of that certain real property located at \_\_\_\_\_, in the City of Maricopa, AZ (the “Property”).
2. The Property is improved with a building (the “Building”). The Property is currently leased to \_\_\_\_\_, who resides or operates a business therein (The “Tenant”).
3. The Tenant has submitted an Application to the City of Maricopa (the “City”) pursuant to the City’s Façade Improvement Program (the “Program”) for a reimbursement in connection with certain improvements the Tenant contemplates making to the Building façade (the “Improvements”).
4. The Tenant has entered into a Program Agreement with the City that sets out the terms and conditions of the Program, and includes the Program Guidelines. Pursuant to the Program Agreement if the Tenant completes construction of the Improvements by the agreed upon Project Completion Date, and satisfies certain other requirements set forth therein, the Tenant will be eligible for a reimbursement (the “Reimbursement”). The Reimbursement will be subject to the Tenant maintaining the funded Improvements for a period of five (5) years from the Tenant’s receipt of the Reimbursement.
5. If the Tenant fails to maintain or alters or removes the Improvements before the close of the five (5) year period referenced above, the Tenant will be required to repay a prorata share of the Reimbursement. This repayment will apply if the Tenant vacates the property and the new tenant or property owner fails to assume maintenance of the Improvements.

Owner now wishes to provide its written consent to all of the foregoing.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner hereby declares as follows:

1. Owner hereby consents to all of the following:
  - a. Tenant’s execution of the Program Agreement and participation in the Program.
  - b. Tenant’s construction of the Improvements.
2. The person or persons executing this Consent on behalf of Owner is fully empowered to do so and in so doing binds Owner according to the terms hereof.
3. Owner acknowledges that Tenant and City are relying upon the provisions of this Consent and that the City would not agree to provide the Reimbursement to Tenant without this Consent.

4. City is a third party beneficiary to this consent.

IN WITNESS WHEREOF, Owner has executed this Consent as of  
\_\_\_\_\_ (Date).

“Owner”

By: \_\_\_\_\_  
(signature)

Initials: \_\_\_\_\_

By: \_\_\_\_\_  
(signature)

Initials: \_\_\_\_\_

## **FAÇADE IMPROVEMENT PROGRAM: OVERVIEW AND GUIDELINES**

### **PROGRAM OVERVIEW AND PURPOSE**

The purpose of the Façade Improvement Program (“Program”) is to improve the appearance of the Façade, the street-facing exteriors of commercial and residential structures within the Heritage District area. The Program’s mission is to stimulate revitalization and private sector capital investment by proactively addressing deteriorating property conditions and encouraging improvements which increase economic vitality.

The Program will be managed by the City of Maricopa’s Economic Development Department staff. On an annual basis, staff’s responsibilities include:

- Revision and publishing of the Façade Improvement Program Application. Revisions shall include updates of deadlines for submission as well as other pertinent program details and dates.
- Managing the activities of a Review Committee tasked with reviewing and approving project applications (pending applicant obtaining appropriate permits), preparing proposed total dollar amount to be allotted to each Façade Improvement project, and preparing the total budget for the annual program.

Applications for the Program will be available for download on the City website and for pickup at City Hall. Each person wishing to submit an application will be required to attend a Pre-Application Information Session held at the Heritage District Citizen Advisory Committee’s regularly scheduled monthly meeting. They will then be permitted to submit an application for review at the following month’s meeting.

### **ELIGIBILITY CRITERIA**

Eligible participants of the Program include property owners within the Heritage District and tenants of commercial and residential buildings. A tenant who is leasing commercial or residential space must have written approval from the property owner to participate in the Program.

Eligible participants of the Program must contribute to the visual enhancement of the property as viewed from the public right of way. Improvements should incorporate elements from the Heritage District Design Guidelines, be comprehensive and may incorporate several of the acceptable components of the existing façade.

#### Eligible Improvements

1. Exterior painting, cleaning, façade repair
2. Plants and landscaping

3. Exterior Signs
4. Awnings and canopies
5. Doors and windows
6. Façade and display window lighting
7. Fascia, tile, trim, metal work and other decorative elements
8. Demolition of obsolete structures
9. Addition of a patio or outdoor space

Ineligible Improvements

1. New building construction
2. Improvements to buildings constructed within the last 5 years
3. Equipment
4. Roof repairs (other than those portions that directly attach to a new or renovated façade)
5. Billboards
6. Security systems
7. Non-permanent fixtures
8. Installation of razor wire and metal bars
9. Personal property
10. Interior window coverings
11. Any interior work
12. Parking lot paving and striping
13. Any improvements not visible from the public right-of-way
14. Any items that are not allowed by the City of Maricopa building code

NOTE: final decisions of financial contributions, amount of grant and eligible projects will be made by the Review Committee.

**FAÇADE IMPROVEMENT PROGRAM ADMINISTRATION**

Project Reimbursement Limits and Applicant Match Requirements

Property Type	Minimum Total Project Cost	Applicant Match Requirement	Maximum Reimbursement
Commercial	\$1,000	≥ 50%	\$20,000
Residential	\$250	No match for first \$1,000; ≥ 50% after	\$5,000

**Commercial Project Reimbursement Examples**

Total Project Cost is:	Project Cost	Applicant Match	City Reimbursement
Below Max Reimbursement	\$10,000	\$5,000 (50%)	\$5,000 (50%)
At Max Reimbursement	\$40,000	\$20,000 (50%)	\$20,000 (50%)
Above Max Reimbursement	\$60,000	\$40,000 (67%)	\$20,000 (33%)

**Residential Project Reimbursement Examples**

Total Project Cost is:	Project Cost	Applicant Match	City Reimbursement
Below \$1,000	\$900	\$0 (0%)	\$900 (100%)
Below Max Reimbursement	\$2,500	\$750 (30%)	\$1,750 (70%)
At Max Reimbursement	\$9,000	\$4,000 (44%)	\$5,000 (56%)
Above Max Reimbursement	\$12,000	\$7,000 (58%)	\$5,000 (42%)

All projects should be completed by a licensed contractor, be permanent to the structure/façade and remain as part of the property if the building is sold or the applicant moves to a different location.

Funding Source: \$50,000 of the Program would be funded through City budgeted funds for the 2012-2013 fiscal year. The City is also seeking funding through the Gila River Indian Community Grant and may seek funding through other grant programs.

Goals

1. To encourage well-designed and needed improvements
2. To restore or improve architectural elements and interest to the structure façade
3. To visually improve facades to encourage economic growth in the Heritage District

Who can apply for funding?

Any commercial or residential property owner or tenant with written authorization from the owner for improvements may apply for funding if they meet the following requirements:

1. The property owner/tenant must owe no outstanding property taxes, fees, judgments, or liens to any government entity
2. The property owner/tenant must not have been convicted of a felony crime in the past seven (7) years
3. If applying for a commercial property, the business owner must have a current City of Maricopa business license

Eligible applicants may apply to the Program more than once; however, applicants will not be awarded funding more than once in any one-year period on the same property. In addition, no property can be awarded funding more than once in any one-year period. If City Code violations exist on the property, the owner/tenant may apply to the Program but will not receive any reimbursement until all violations have been remediated.

### Application Process

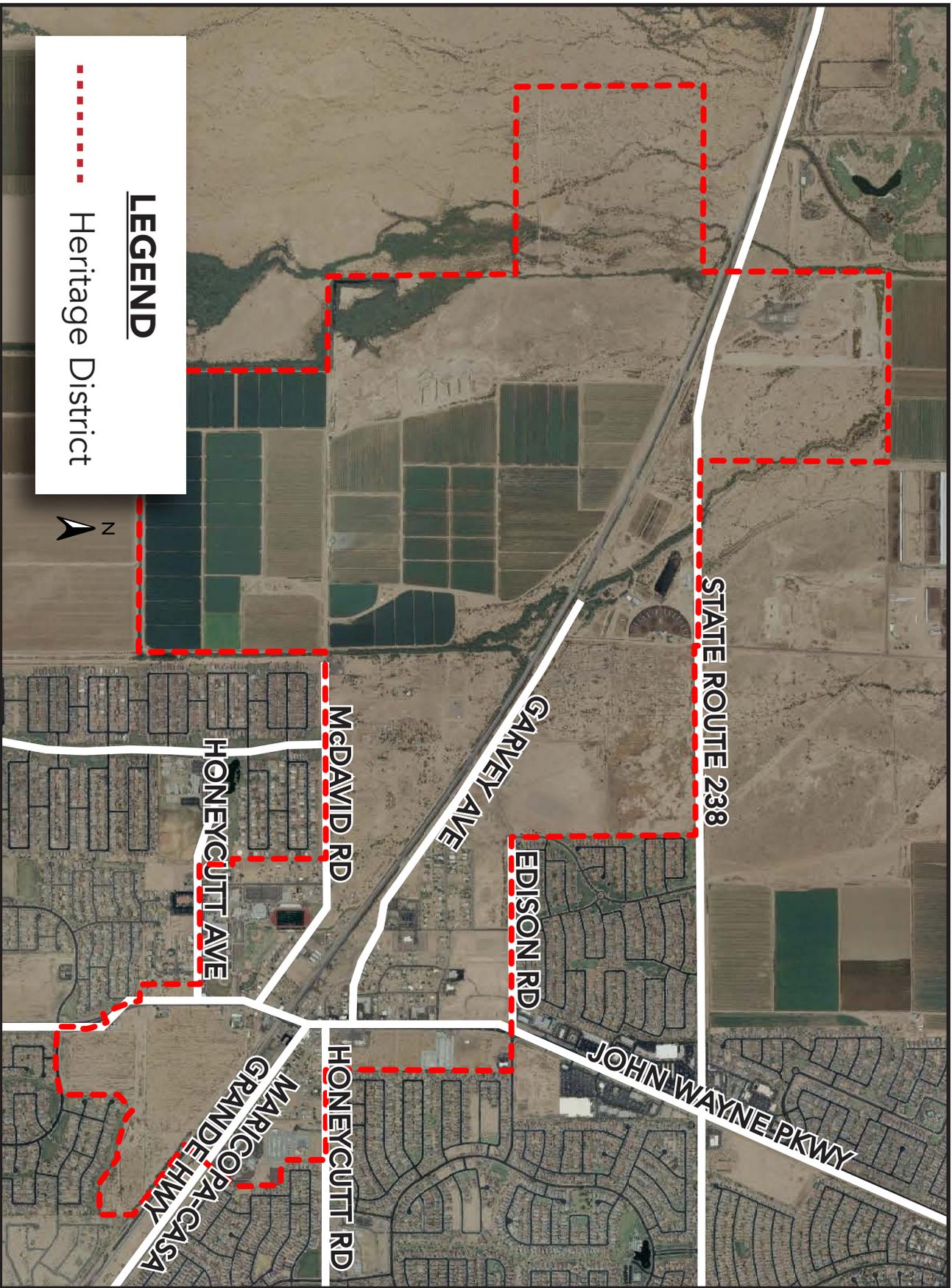
1. **Pre-Application Information Sessions:** Information sessions will be held four (4) times during the year at the Heritage District Citizen Advisory Committee's regularly scheduled monthly meeting. The Pre-Application Information Session will include:
  - a. A comprehensive review of the application
  - b. Program requirements
  - c. Approval process and terms and conditions of the grant
  - d. Opportunity to ask questions
2. **Submission of Formal Program Application:** To be reviewed at the next Committee meeting a formal application must be received by the City of Maricopa Economic Development Department no later than ten (10) days prior to the meeting date. Submissions must include:
  - a. A complete application; incomplete applications will not be reviewed
  - b. Altered property rehabilitation plans drawn to scale
  - c. Photographs of the existing condition
  - d. Estimated total project costs with at least 3 attached contractor bids
  - e. If tenant is the applicant, letter of support from the property owner indicating permission to apply for the project

NOTE: funding cannot be guaranteed beyond the first review date. If the total Program budget is awarded during the first round of applications, remaining review dates will be cancelled and no additional projects will be funded.

3. **Staff Application Review Process:** Prior to the next Heritage District Citizen Advisory Committee meeting, the Program "Review Committee" will review each application for completeness, identify appropriate funding for each proposed project and prepare recommendations. The Review Committee will evaluate applications on the following criteria:
  - a. Design plan fit with the Heritage District Design Guidelines
  - b. Location within the Heritage District; preference will be given to properties with frontage on major City arterials (John Wayne Parkway, Maricopa-Casa Grande Highway, and Honeycutt Road)

- c. Total project budget; preference will be given to applicants that commit more than the minimum match required
  - d. Linear feet of façade to be improved
  - e. Contractor selected, with preference to Maricopa-based contractors
4. **Formal Notice to Proceed:** Following approval, the City will issue a formal “Notice to Proceed.” Any work initiated before the City’s issuance of the “Notice to Proceed” will not be eligible for funds reimbursement. Participants will be required to enter into and execute a written agreement with the City of Maricopa to establish the terms, conditions, and requirements for participation in the Program.
5. **Start of Façade Improvement:** After “Notice to Proceed,” but prior to work starting, the applicant must secure any required City building or development permits.
6. **Review Committee Inspection:** The Review Committee inspects completed projects to ensure that work was performed as outlined in the application. This inspection does not replace or supersede any additional inspections that may be required by the City’s Building Safety Division.
7. **Submission of Project Expenses:** The applicant must submit copies of paid bills, cancelled checks, contractor lien waivers and receipts for reimbursements. Each submission must also include photographs (before and after improvements) and descriptions of the work completed. No reimbursement will be made until all improvements have been completed to the specifications approved by the Review Committee and have passed inspection from first the City Building Safety Division (if required) then the Review Committee.
8. **Applicant Reimbursement:** The applicant is reimbursed up to the amount of the approved grant. Work must be completed within six (6) months of the stated start date unless otherwise noted in the application.

# HERITAGE DISTRICT: FACADE IMPROVEMENT PROGRAM AREA



**LEGEND**  
----- Heritage District



**FAÇADE IMPROVEMENT PROGRAM:  
APPLICATION**

The purpose of the Façade Improvement Program is to improve the appearance of the Façade, the street-facing exteriors of commercial and residential structures within the Heritage District area. The Program's mission is to stimulate revitalization and private sector capital investment by proactively addressing deteriorating property conditions and encouraging improvements which increase economic vitality.

**DATE:**

**PRE-APPLICATION INFORMATION SESSION ATTENDED (please circle)**

Nov. 8, 2012      Jan. 10, 2013      Mar. 14, 2013      May 9, 2013

**REVIEW DATE REQUESTED (please circle)**

Dec. 13, 2012      Feb. 21, 2013      Apr. 11, 2013      Jun. 13, 2013

**PROPERTY INFORMATION**

Property Address:

Year Facility Was Constructed:

**APPLICANT INFORMATION**

Applicant Name:

Applicant Address:

Applicant Phone:

Applicant Email:

Business Name (if applicable):

How long have you been in business (if applicable)?

Do you have a current City of Maricopa business license?

How many employees do you currently have on staff?

How many employees do you anticipate adding after improvements?

**PROPERTY OWNER INFORMATION (if Applicant is not Property Owner)**

Owner(s) Name:

Owner(s) Address:

Owner(s) Phone:

Owner(s) Email:

Is the property currently for sale?

**PROJECT INFORMATION**

Anticipated Start Date:

Anticipated Finish Date:

Proposed Project TOTAL Cost:

Grant Funds Requested:

Contractor Selected:

Name:			
Address:			
Phone:		Email:	

Provide a narrative of your proposed project including types of improvements (doors, windows, signage, etc.) and outcomes for the building (how the project will improve your residence or business):

Which specific elements from the Heritage District Design Guidelines does the proposed project incorporate?

Detailed description (budget) of all construction, rehabilitation, and improvements, including types of materials and colors (attach final bid documents, photos, drawings, and samples where possible). Include breakdown of all approximate costs associated with each line item.

Work to be Performed	Cost Anticipated	Materials & Color Description	Bid Reference #

**OWNER AUTHORIZATION (if Applicant is not Property Owner)**

I hereby certify that I am the owner in fee of this property and that the applicant has my permission to participate in the Façade Improvement Program and proceed with each of the improvements proposed above.

Property Owner's Signature:

Property Owner's Name & Date:

**APPLICANT CERTIFICATION**

Applicant, please provide your signature below to acknowledge that you understand and agree to each of the following. Your application will not be reviewed if you do not agree to abide by these program requirements:

- I understand that all improvements are subject to obtaining the appropriate permits for the project and I hereby commit to obtaining all required permits before initiating work on the project.
- I understand that as a condition for participation in this program, I am required to owe no outstanding property taxes, fees, judgments, or liens to any government entity. I hereby confirm that I owe no such debts.

Applicant Signature:

Applicant's Name & Date:

**FAÇADE IMPROVEMENT PROGRAM: APPLICATION SCORE SHEET**

100 points possible. Average score of 50+ points required to receive funding.

Criteria	Score
<p><b>1. Fit with the Heritage District Design Guidelines</b></p> <p>SUBJECTIVE (10 PTS): How well does the proposed project meet the spirit of the Heritage District Design Guidelines?</p> <p>SET (10 PTS): How many elements from the Heritage District Design Guidelines does the proposed project incorporate?</p> <ul style="list-style-type: none"> <li>• 1 = 5 points</li> <li>• 2+ = 10 points</li> </ul>	
<p><b>2. Location within the Heritage District</b></p> <p>SET (25 PTS): Does the proposed project have frontage on a major City arterial (John Wayne Pkwy, Maricopa-Casa Grande Hwy, Honeycutt Rd)?</p> <ul style="list-style-type: none"> <li>• No = 0 points</li> <li>• Yes = 25 points</li> </ul>	
<p><b>3. Total Project Budget</b></p> <p>SUBJECTIVE (10 PTS): Does the proposed project represent an efficient use of grant funds (i.e. good bang for the buck)?</p> <p>SET (15 PTS): How much funding has the applicant committed beyond the minimum match required?</p> <ul style="list-style-type: none"> <li>• \$500 – 999 = 5 points</li> <li>• \$1,000 – 1,999 = 10 points</li> <li>• \$2,000+ = 15 points</li> </ul>	
<p><b>4. Portion of the Façade to be Improved</b></p> <p>SUBJECTIVE (10 PTS): Will the proposed project significantly improve the appearance of the overall building façade?</p> <p>SET (15 PTS): How many linear feet of the façade will the project enhance?</p> <ul style="list-style-type: none"> <li>• 10 – 20 = 5 points</li> <li>• 20.1 -30 = 10 points</li> <li>• 30.1+ = 15 points</li> </ul>	
<p><b>5. Contractor Selected</b></p> <p>SET (5 PTS): Has the applicant selected a local, Maricopa-based contractor?</p> <ul style="list-style-type: none"> <li>• Yes = 5 points</li> <li>• No = 0 points</li> </ul>	

**Total Score** \_\_\_\_\_

**Recommend Funding?** \_\_\_\_\_

**Suggested Funding** \_\_\_\_\_

## **FAÇADE IMPROVEMENT PROGRAM: PROGRAM SCHEDULE**

NOTE: Heritage District Citizen Advisory Committee meetings are typically held the second Thursday of each month but are subject to change.

### **MEETING DATE**

Nov. 8, 2012:	1 <sup>st</sup> Pre-Application Information Session
Dec. 13, 2012:	1 <sup>st</sup> Application Review
Jan. 10, 2013:	2 <sup>nd</sup> Pre-Application Information Session
Feb. 21, 2013:	2 <sup>nd</sup> Application Review
Mar. 14, 2013:	3 <sup>rd</sup> Pre-Application Information Session
Apr. 11, 2013:	3 <sup>rd</sup> Application Review
May 9, 2013:	4 <sup>th</sup> Pre-Application Information Session
Jun. 13, 2013:	4 <sup>th</sup> Application Review*

\* If the Facade Improvement Program is awarded funding through the Gila River Indian Community Grant, additional Pre-Application Information Session and Application Review dates may be held on an as needed basis beyond June 13, 2013.