

PUBLIC SERVICE AWARD AGREEMENT

THIS PUBLIC SERVICE AWARD AGREEMENT (“Agreement”) is made and entered into this 17th day of July 2012, by and between The City of Maricopa, Arizona, an Arizona municipal corporation (“City”), and City of Maricopa Chamber of Commerce, Inc., an Arizona non-profit corporation (“Recipient”).

WHEREAS, City desires to award public monies to Recipient for provision of a visitor center which answers visitor and new resident inquiries, provides various resources for community businesses to advance their development, and assists those wanting to start a business in the City;

WHEREAS, the City has a need for a physical location staffed with a representative of the Recipient to ensure the deliverability of these needs to the community (the “Project”); and

WHEREAS, Recipient is qualified and prepared to perform the necessary services in connection with the Project.

NOW, THEREFORE, City agrees to award funds and does hereby award funds to Recipient and Recipient agrees to provide the Services required according to the terms and conditions and for the consideration hereinafter set forth:

1. AWARD FUNDS: City will pay Recipient Forty Thousand and 00/100 Dollars (\$40,000.00) in equal monthly installments (“Award Fund”). Each Award Fund shall be due on the 1st of each month (“Due Date”).
2. RECIPIENT’S DUTIES: Funding is subject to Recipient conforming to the conditions and performing the duties and responsibilities provided herein:
 - a.) Recipient agrees expenditures of Award Funds will only be for the purpose(s) stated in the Scope of Services (“Services”) which is attached hereto as Exhibit A and incorporated herein by reference. If the Recipient’s expenditures deviate from the approved Services, the Recipient shall immediately reimburse the unauthorized expenditure amount to the City and the Agreement may be subject to cancellation pursuant to the procedure set forth below.
 - b.) Recipient agrees that it will immediately contact the City Manager to make application to the City Council for a revision of the Services to completely expend the Award Funds or to allow the City to reallocate the funds elsewhere.
 - c.) Recipient must have prior written approval from the City Council for changes in the intent and purpose of the Services.
 - d.) Recipient agrees to allow City to make site visits as well as financial and function audits, which City may deem necessary to ensure Agreement compliance.
 - e.) Recipient agrees to retain all Award Fund records and supporting documentation for a period of five (5) years after Agreement termination and to make all records available for inspection and audit by City upon written notice.

f.) Recipient agrees to maintain valid invoices and expenditure documentation to ensure fiscal control and provide an audit trail for the use of the Award Funds.

g.) Recipient agrees that any expenses incurred by Recipient for approved Services which exceed the Award Funds provided pursuant to this Agreement shall be the sole responsibility of the Recipient unless otherwise specified in writing by the City.

h.) Recipient agrees to submit a quarterly written report within thirty (30) calendar days of the quarters ending September 30, December 31, March 31 and June 30 indicating the activities, successes and major transactions that have occurred due to these Award Funds and in accordance with the Scope of Services as described in Exhibit A. The following reports shall also be provided to the City on a quarterly basis:

-The name and contacting information of individuals inquiring during the quarter about starting or expanding a business in the City of Maricopa;

-A summary of inquiries during the quarter for tourist and relocation materials, including but not limited to mode of request and geographic origin of request;

-A financial report for the quarter, including (but not limited to) an accounting of the funds appropriated under this Agreement.

3. CITY'S DUTIES: City shall arrange for access to and make all provisions necessary for Recipient to enter upon public and private property as required for Recipient to perform the Services hereunder.

4. TERM OF AGREEMENT: This Agreement shall terminate on June 30, 2013. This Agreement may be terminated by either party upon thirty (30) days written notice. Recipient may suspend its Services should an Award Fund remain delinquent for thirty (30) days from its Due Date.

5. RECIPIENT'S STANDARD OF PERFORMANCE: While performing the Services, Recipient shall exercise the reasonable care and skill customarily exercised by reputable members of Recipient's profession practicing in the Phoenix Metropolitan Area, and shall use reasonable diligence and best judgment while exercising its skill and expertise. Recipient shall be responsible for all errors and omissions Recipient commits in the performance of this Agreement that are a breach of this standard.

6. NOTICES: All notices to the other party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following personnel:

If to City: City of Maricopa Attn: City Manager PO Box 610 Maricopa, AZ 85139

If to Recipient: City of Maricopa Chamber of Commerce, Inc. PO Box 1203 Maricopa, AZ 85139

7. NO PARTNERSHIP OR THIRD PARTY BENEFICIARIES: It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the City and Recipient. The Services to be performed by

Recipient are intended solely for the benefit of the City. Nothing contained herein shall confer any rights upon or create any duties on the part of Recipient toward any person or persons not a party to this Agreement.

8. UNCONTROLLABLEFORCES: City and Recipient shall exert all efforts to perform their respective responsibilities under this Agreement. However, neither party shall hold the other party responsible for inability to render timely performance if such inability is a direct result of a force beyond its control, including but not limited to the following: strikes, lockouts, embargoes, failure of carriers, inability to obtain transportation facilities, acts of God or the public enemy, or other events beyond the control of the other or the other's employees and agents.

9. INSURANCE: Recipient shall procure and maintain in force at its expense during the term of this Agreement, general liability insurance in the amount of \$500,000. Recipient shall deliver to City a certificate of insurance showing a commitment from the insurer that City shall be notified in writing at least thirty (30) days prior to cancellation or refusal to renew any policy.

10. INDEMNIFICATION: City shall not be liable for liability or damage claims for injury to persons or property from any cause relating to the use of the visitor center by Recipient or Recipients employees, agents, or subtenants, or for those arising out of damages or losses occurring on other areas immediately adjacent to the visitor center that may be used by Recipient, Recipient's employees, agents or subtenants during the term of this Agreement. Recipient shall indemnify and hold City, its officers and employees harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including attorneys' fees, which arise out of, or is in any way connected with the negligent performance of Services under this Agreement by Recipient, or any of Recipient's employees, agents or consultants, and from all claims by Recipient's employees, consultants and agents for compensation for services rendered to Recipient in the performance of this Agreement, notwithstanding that City may have benefitted from their services. This indemnification provision shall apply to any and all negligent acts or omissions, willful misconduct, whether active or passive, on the part of Recipient or Recipient's employees, consultants or agents. This section shall survive the expiration or early termination of the Agreement.

11. WAIVER OF TERMS AND CONDITIONS: The failure of City or Recipient to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

12. INDEPENDENT CONTRACTOR: Recipient shall at all times during Recipient's performance of the services retain Recipient's status as independent contractor. Recipient's employees shall under no circumstances be considered or held out 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 Recipient.

13. GOVERNING 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.

14. ADDITIONAL ACTS AND DOCUMENTS: Each party to this Agreement agrees to do all things, take all actions and to make, execute and deliver such other documents and instruments as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.

15. LICENSE: Recipient represents and warrants that any license necessary to perform the Services under this Agreement is current and valid. Recipient understands that the activity described herein constitutes "doing business in the City of Maricopa" and Recipient agrees to obtain a business tax license pursuant to Article 8-1 of the City of Maricopa's City Code and keep such license current during the term of this Agreement. Any activity by sub-consultants within the corporate city limits, will invoke the same business tax regulations on any sub-consultants, and Recipient ensures its sub-consultants will obtain any required business tax license.

16. NONASSIGNMENT: Recipient agrees it will not transfer or assign any obligations, duties, rights or benefits under this Agreement to any person or entity without express written permission of the City. Permission of the City may be withheld with or without cause.

17. ENTIRE AGREEMENT: This Agreement and any attachments represent the entire agreement between City and Recipient and supersedes all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Services, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

18. SEVERABILITY: If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.

19. CONFLICTS OF INTEREST: The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this Agreement.

20. AMERICANS WITH DISABILITIES ACT: This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: The Recipient shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and

federal employment laws, rules and regulations, including the Americans With Disabilities Act. The Recipient shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

21. UNDOCUMENTED WORKERS: Subject to existing law, and regulations, illegal or undocumented aliens will not be employed by the Recipient for any work or services to be performed pursuant to this Agreement. The Recipient will ensure that this provision is expressly incorporated into any and all subcontracts or subordinate agreements issued in support of this Agreement. Recipient agrees to comply with the provisions of section 274A(a)(1)(A) and 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)(A), 1324a(a)(2)) (the “INA employment provisions”), and any amendments thereto, prohibiting the unlawful employment of illegal or undocumented aliens. Under the terms of this Agreement, the Recipient shall not knowingly hire or employ for any work or services performed pursuant to this Agreement any workers or employees not lawfully authorized to work under the provisions of the Immigration and Nationality Act or any other applicable federal or state laws. Violation of the provisions of this section shall be deemed a material breach of this Agreement.

22. SCRUTINIZED BUSINESS OPERATIONS: In signing this Agreement, Recipient 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.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement this 17th day of July, 2012.

CITY OF Maricopa

City of Maricopa Chamber of Commerce
an Arizona nonprofit corporation

By: _____
Christian Price, Mayor

By: _____
John Donohue
Board Chairman

ATTEST:

LeeAnne Schirato, Deputy City Clerk

APPROVED AS TO FORM:

Denis Fitzgibbons, City Attorney