

AGREEMENT FOR SCHOLARSHIP MATCH PROGRAM

This Agreement dated this 3rd day of April 2018, between the **CITY OF MARICOPA**, an Arizona Municipal Corporation ("City") and the **MARICOPA CULTURAL ACTIVITY CENTER, INC., an Arizona non-profit corporation doing business as FRIENDS OF THE MARICOPA PUBLIC LIBRARY** ("Contractor").

WHEREAS, the City is a municipal corporation operating under the provisions of Title 9 of the Arizona Revised Statutes and, as such, considers higher education for youth to be an integral part of the services offered to its citizens; and

WHEREAS, the City Council of the City of Maricopa allocated funds in the fiscal year 2017/2018 budget for an Academic Scholarship Match Program ("Program") to assist organizations supporting the community; and

WHEREAS, pursuant to the Program, Contractor has submitted a proposal to the City to encourage and support higher education for youth in the City of Maricopa.

NOW, THEREFORE, City agrees to provide funds pursuant to the Program in accordance with the terms and conditions and for the consideration hereinafter set forth:

1. **SERVICES**: Contractor shall provide academic scholarship(s) to youth in the City of Maricopa in accordance with its attached proposal (Exhibit A). Contractor hereby affirms the attached proposal and all attachments outlining the Services are true and correct as of the date of this Agreement and will remain true and correct throughout the term of this Agreement. The term "Services" as used in this agreement shall be defined as those services proposed by Contractor in their proposal.

2. **DURATION OF CONTRACT**: The term of this agreement shall commence on April 3, 2018 and expire on November 30, 2018.

3. **COMPENSATION AND REPORTING**: Pursuant to the Program and in consideration for said Services rendered under this Agreement, the City shall contribute Two Thousand and 00/100 Dollars (\$2,000) for Services to the Contractor. Such contribution shall be received in full by Contractor by May 8, 2018 and shall be disbursed to awarded students no later than November 30, 2018. Within six (6) months of receiving the funds, Contractor shall submit a written report with the City detailing how the funds were utilized including, but not limited to, which student(s) received the scholarship and how the scholarship was used.

4. **RECORDS**: Contractor shall maintain records and accounts in accordance with generally accepted accounting principles for all revenues received and expenditures made under this Agreement. Contractor shall provide the City with a written and complete budget outlining all planned revenue sources and expenditures. Contractor agrees to make its records and accounts available for inspection during reasonable business hours upon written request for inspection by the City of Maricopa. Contractor shall maintain records for a period of at least two (2) years after termination of this Agreement, and shall make such records available during that retention period for examination or audit by City personnel during regular business hours.

5. RESTRICTION UPON USE OF FUNDS: Any and all amounts paid under this Agreement may be used solely to provide the Services by November 20, 2018. Contractor agrees to refund the City of Maricopa any amounts used for any other purpose or any amounts not disbursed pursuant to the terms thereof. Any amount used for a purpose other than those provided for under this Agreement shall constitute a lien in favor of the City of Maricopa against amounts remaining to be paid under this Agreement and may be deducted there from by the City of Maricopa at its sole option without prejudice to any other available remedies.

6. TERMINATION: This Agreement shall automatically terminate under expiration of the term specified in Paragraph 2 hereof. The City may terminate this Agreement for any reason upon thirty (30) days written notice.

7. RELATIONSHIP OF THE PARTIES: Contractor shall at all times during the term of this Agreement retain Contractor's status as independent contractor. Contractor's 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 Contractor.

8. 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.

9. INDEMNIFICATION: Contractor shall defend, 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 this Agreement, or any of Contractor's employees, agents or subconsultants, and from all claims by Contractor's employees, subconsultants and agents for compensation for services rendered to Contractor in the performance of this Agreement, notwithstanding that City may have benefited from their services. This indemnification provision shall apply to any and all acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor or Contractor's employees, subconsultants or agents. This section shall survive the expiration or early termination of the contract.

10. NOTICES: All notices to the other party required under this contract 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
City Manager
39700 W Civic Center Plaza
Maricopa, AZ 85138

If to Contractor: Maricopa Cultural Activity Center, Inc.
dba: Friends of the Maricopa Public Library

11. 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. 12101-12213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: The Contractor 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 Contractor 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.)

12. UNCONTROLLABLE FORCES: City and Contractor 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.

13. ENTIRE CONTRACT: This Agreement and any attachments represent the entire agreement between City and Contractor and supersede all prior negotiations, representations or agreements, 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 agreement, 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.

14. 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 Contractor 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 Contractor 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 Contractor. 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.

15. 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.

16. CONFLICT OF INTEREST: This agreement is subject to the provisions of A.R.S. § 38-511.

17. TERMINATION FOR NON-APPROPRIATION: This Agreement shall terminate at the end of the then current fiscal period for non-appropriation of funds if City's governing body fails to appropriate funds to pay for the obligations required of it by this Agreement. Such cancellation shall be upon thirty (30) days written notice to the Contractor. The City's fiscal period ends June 30 of each year. Funding under this Agreement beyond the current appropriation year is conditional upon the appropriation by the Maricopa City Council of sufficient funds to pay for this Agreement. Should such appropriation not be approved, this Agreement shall terminate at the close of the current appropriation year.

18. WAIVER OF TERMS AND CONDITIONS: The failure of City or Contractor 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.

19. NONASSIGNMENT: Neither party to this Agreement shall assign its interest in the Agreement, either in whole or in part. Contractor shall not assign any monies due or to become due to it hereunder without the prior written consent of City.

20. 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.

21. FEDERAL REGULATIONS: Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Contractor acknowledges, by signature to this Agreement, that: Contractor is not currently suspended or debarred from contracting with the federal government or any of its agencies or the State of Arizona or any of its political subdivisions; Contractor's principals are not currently suspended or debarred from contracting with the federal government or any of its agencies or the State of Arizona or any of its political subdivisions.

22. UNDOCUMENTED WORKERS: Contractor 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, Contractor hereby warrants to the City that Contractor 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 Contractor 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 Contractor employee who works on this agreement to ensure that Contractor is complying with the Immigration Warranty. Contractor 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 Contractor and any of subcontractors to ensure compliance with Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Contractor shall not 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 Contractor 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.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year written above.

CONTRACTOR

Maricopa Cultural Activity Center, Inc., an Arizona non-profit d/b/a Friends of the Maricopa Public Library

By:_____

Its:_____

CITY OF MARICOPA

an Arizona municipal corporation

Trisha Sorensen

Interim City Manager

ATTEST:

Vanessa Bueras, City Clerk

APPROVED AS TO FORM:

City Attorney