

## ECONOMIC DEVELOPMENT SERVICES AGREEMENT

THIS ECONOMIC DEVELOPMENT SERVICES AGREEMENT is made and entered into this \_\_\_\_\_ day of January 2020, by and between the CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation (“City”), and MARICOPA ECONOMIC DEVELOPMENT ALLIANCE, an Arizona Non-Profit Corporation (MEDA) (“Consultant”), to provide economic development services for the City. MEDA and CITY are collectively referred to herein as “Parties” and individually as “Party.”

WHEREAS, the Parties desire to stimulate growth in business, job creation, tax base, the local and regional economy and economic opportunity for the citizens, businesses, and City of Maricopa; and

WHEREAS, accomplishing this objective requires a working relationship between the City and interested parties that is cooperative, harmonious, aligned and adequately resourced; and

WHEREAS, the Parties intend to implement a comprehensive economic development program on the terms set forth in this Agreement; and

WHEREAS, MEDA is a non-profit corporation organized to promote economic development within the City; and

WHEREAS, MEDA is qualified to and will perform such assistance functions to assist the City’s economic development

NOW, THEREFORE, City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services required according to the terms and conditions and for the consideration hereinafter set forth:

1. DUTIES, COMPENSATION AND TERM: The Parties agree to perform the services and Consultant agrees to be compensated in accordance with the terms and conditions of this Agreement as follows:

See attached Exhibit A, which are incorporated into this Agreement

2. CITY’S STANDARD OF PERFORMANCE: City shall furnish the Consultant with all data, information and other supporting services as specified in Exhibit A.

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

4. COUNTERPARTS: This Agreement may be executed in one or more counterparts, each

of which shall be deemed an original but all of which together shall constitute one and the same instrument.

5. 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  
39700 W. Civic Center Plaza  
Maricopa, AZ 85138

If to Consultant:

Maricopa Economic Development Alliance  
Attn: Chairman/CEO, Board of Directors  
P.O. Box 1703  
Maricopa, AZ 85139

6. TERMINATION: This Agreement may be terminated by either party upon twelve (12) months written notice. If this Agreement is terminated, Consultant shall be paid for services performed through the date the termination is effective. In the event of such termination, Consultant shall deliver to City all work in any state of completion at the date of effective termination.

7. RECORDS: Records of Consultant's labor, payroll, and other costs pertaining to this Agreement shall be kept on a generally recognized accounting basis and made available to City for inspection on request. Consultant shall maintain records for a period of at least five (5) years during the performance of this Agreement, and shall make such records available during that retention period for examination or audit by City personnel during regular business hours. If this Agreement is terminated, Consultant shall only be required to maintain records for a period of at least two (2) years after the date the termination is effective.

8. INSURANCE:

8.1 General.

a. Insurer Qualifications. Without limiting any obligations or liabilities of the Consultant, the Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly authorized by the State of Arizona with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

b. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect the Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this

Agreement but have no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve the Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

c. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation/Employer's Liability insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

d. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

e. Primary Insurance. The Consultant's insurance, except Workers' Compensation/Employer's Liability insurance and Professional Liability insurance, if applicable, shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

f. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

g. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of the Consultant. The Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto on a blanket basis.

h. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. The Consultant shall be solely responsible for any such deductible or self-insured retention amount.

i. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, the Consultant shall execute written agreement with the Subcontractor containing the indemnification provisions and insurance requirements (unless waived by City in City's sole discretion) set forth herein protecting the City and the Consultant. Subcontractors with contracts to complete work under this agreement for \$100,000 or less shall be required to maintain at least fifty percent (50%) of the required insurance coverage limits contained in Section 8.2. All other Subcontractors shall comply with the full

required insurance coverage limits. The Consultant shall be responsible for executing the agreement with the Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

j. Evidence of Insurance. Prior to commencing any work or services under this Agreement, the Consultant shall furnish the City with certificate(s) of insurance, or formal endorsements as required by this Agreement, issued by Consultant's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. If a certificate of insurance is submitted as verification of coverage, the City shall reasonably rely upon the certificate of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the above-cited policies expire during the life of this Agreement, it shall be the Consultant's responsibility to forward renewal certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates of insurance shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

- (a) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 or equivalent.
- (b) Auto Liability - Under ISO Form CA 2048 or equivalent.
- (c) Excess Liability - Follow Form to underlying insurance.

(2) The Consultant's insurance shall be primary and non-contributory insurance as respects performance of the Agreement, except Workers' Compensation/Employer's Liability insurance and Professional Liability insurance, if applicable.

(3) All policies, excluding Professional Liability, waive rights of recovery (subrogation) against the City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by the Consultant under this Agreement.

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

## 8.2 Required Insurance Coverage.

a. Commercial General Liability. The Consultant shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$1,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. Such limits may be met in combination of primary and excess policies. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations,

bodily injury or death, personal injury, advertising injury and property damage. Coverage under the policy will be at least as broad as ISO policy forms CG 00 010 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials, volunteers and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you."

b. Vehicle Liability. The Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on the Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy.

c. Professional Liability (Errors and Omissions Liability). Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claim and \$2,000,000 all claims.

d. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant 's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

8.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, except for non-payment of premium, without thirty (30) days prior written notice to the City.

9. UNCONTROLLABLE FORCES: City and Consultant 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.

10. INDEMNIFICATION BY CONSULTANT: To the fullest extent allowed by law, Consultant 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 reasonable attorneys' fees, which arise out of, or is in any way connected with the performance of work under this Agreement by Consultant, or any of Consultant's employees, agents or subconsultants, and from all claims by Consultant's employees,

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

11. INDEMNIFICATION BY CITY: To the fullest extent allowed by law, the City shall defend and indemnify, and hold Consultant, any of Consultant's employees, agents or subconsultants harmless from any and all loss, damage claim for damage, liability, expense, or cost, including reasonable attorneys' fees, which arise out of, or is in any way connected with the City's, or the City's agents, representatives, officers, directors, officials and employees obligations under this Agreement or the performance of work under this Agreement by the City, or the City's agents, representatives, officers, directors, officials and employees and from all claims by City's agents, representatives, officers, directors, officials and employees for compensation for services rendered to City in performance of this Agreement, notwithstanding that Consultant may have benefit from their services. This indemnification provision shall only apply to any and all negligent acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of the City or the City's agents, representatives, officers, directors, officials and employees. This section shall survive the expiration or early termination of the Agreement.

12. WAIVER OF TERMS AND CONDITIONS: The failure of City or Consultant 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.

13. INDEPENDENT CONTRACTOR: Consultant shall at all times during Consultant's performance of the services retain Consultant's status as independent contractor. Consultant'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 Consultant.

14. ARBITRATION. In the event that there is a dispute hereunder which the parties cannot resolve, either Party may provide written notice to the other Party detailing all facts and circumstances giving rise to the dispute, including particular provisions of the Agreement alleged to have been breached, and the actions required to resolve the dispute. In the event the Parties are unable to resolve the dispute after engaging in good faith settlement negotiations for at least 120 days of the written notice, either Party may submit the dispute to nonbinding arbitration. 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 Consultant 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 Consultant 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 Consultant. 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. Neither Party may initiate litigation based on a dispute under this Agreement until after a final arbitration decision has been issued. Nothing in this provision

prohibits the Parties from agreeing to other alternative forms of dispute resolution, including non-binding mediation.

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. OWNERSHIP OF RECORDS AND REPORTS: All of the files, reports, documents, information and data prepared or assembled by Consultant under this Agreement shall be and remain the property of City and shall be forwarded to City at any time City requires such papers.

17. LICENSE: Consultant represents and warrants that any license necessary to perform the work under this Agreement is current and valid.

18. NONASSIGNMENT: This Agreement has been entered into based upon the personal reputation, expertise and qualifications of Consultant. Neither party to this Agreement shall assign its interest in the Agreement, either in whole or in part. Consultant shall not assign any monies due or to become due to it hereunder without the prior written consent of City.

19. THIRD PARTY BENEFICIARIES: There are no third party beneficiaries of this Agreement.

20. ENTIRE AGREEMENT: This Agreement and any attachments represent the entire agreement between City and Consultant and supersede 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 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.

21. 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.

22. 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 contract.

23. 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 Consultant 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 Consultant 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.)

24. 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. Consultant acknowledges, by signature to this agreement, that: Consultant 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; Consultant'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.

25. UNDOCUMENTED WORKERS: Consultant 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, Consultant hereby warrants to the City that the Consultant 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 Consultant 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 Consultant or Subcontractor employee who works on this Agreement to ensure that the Consultant or Subcontractor is complying with the Immigration Warranty. Consultant 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 Consultant and any of subcontractors to ensure compliance with Immigration Warranty. Consultant agrees to assist the City in regard to any random verification(s) performed.

Neither the Consultant 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 Consultant 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.

26. NO KICK-BACK CERTIFICATION: Consultant warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the City has a financial interest in the Consultant's firm. For breach or violation of this warranty, the City shall



have the right to annul this Agreement without liability, or at its discretion to deduct from the compensation to be paid Consultant hereunder, the full amount of such commission, percentage, brokerage or contingent fee.

27. ISRAEL BOYCOTT: Consultant shall not participate in, and agrees not to participate in during the term of this Agreement a boycott of Israel in accordance with A.R.S. §35-393.01

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the day and year first above written.

**CONSULTANT:**

MARICOPA ECONOMIC DEVELOPMENT ALLIANCE, an  
Arizona Non-Profit Corporation

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

**CITY OF MARICOPA**  
An Arizona municipal corporation

\_\_\_\_\_  
Christian Price  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Vanessa Bueras, MMC  
City Clerk

\_\_\_\_\_  
Denis M. Fitzgibbons  
City Attorney

## Exhibit A

### Economic Development Services

MEDA agrees to perform the following services for the City:

1. Be the lead and serve as the single point of contact and information source on behalf of the City of Maricopa to prospective employers, investors and other groups such as real estate brokers and developers and site location consultants interested in investing and/or establishing job-producing operations in the City.
  - a. Work collaboratively with public/private stakeholders such as, but not limited to, the State of Arizona, Pinal County, Maricopa County, Greater Phoenix Economic Council, education and training institutions and other partners who impact the business decision-making process to ensure that MEDA's, and therefore the City's, economic development goals and aspirations are communicated and, to the extent practicable, integrated into the plans and programs of these stakeholders.
  - b. Participate as appropriate in public/private economic development stakeholder marketing programs and missions.
  - c. Professionally represent Maricopa and MEDA in county, regional and state prospect hostings.
  
2. Provide direct assistance to the City on such economic development matters as:
  - a. Manage and coordinate Maricopa responses to prospective investors and employers;
  - b. Establish and execute a marketing plan for the City as a location for business operations, quality and inclusive economic growth, talent attraction and job creation through local, national and international campaigns and business development activities;
  - c. Identify infrastructure and other barriers that impede Maricopa's ability to be competitive for quality employers and other economic development projects and advise local officials so that they can be addressed.
  - d. Consistent with the MEDA Board-approved annual action plan and marketing plan, develop and execute business attraction and retention initiatives and programs to generate quality leads and prospects that can locate job-creating investments and projects in Maricopa.
  - e. Identify and participate in appropriate local activities and programs that will enhance the opportunities for capital investment and job creation in Maricopa, such as hosting meetings, receptions and ground-breaking/ribbon cutting ceremonies.
  - f. Collaborate and engage, where practical, other local entities such as chambers of commerce, schools and other organizations whose work impacts the business climate and business decision-making process to enhance the overall environment

for positive image building and community development, thereby enhancing opportunities for success.

### **Communications and Reporting**

1. MEDA will provide quarterly non-confidential activity reports to the City, highlighting its major accomplishments. MEDA also agrees to publish an annual report for its public and private sector investors covering MEDA's activities, budget and achievement.
2. MEDA will report on activities of MEDA in person, on a monthly basis to the City Manager or designee and to the City Council twice annually. Reporting to the Maricopa City Council twice annually will be generic in nature, so as to protect confidential project information. Protected project information concerning negotiations, proprietary information, and company identification will be provided to the City Manager or designee as appropriate.
3. MEDA will coordinate and work directly with the Maricopa City Manager and continue to inform on activities, both public and private that are undertaken to strengthen the collaborative partnership between the two entities and to leverage each other's resources and talents.

### **Personnel**

1. MEDA agrees to provide a full-time qualified economic development professional(s) on staff commensurate with its annual budget with a designated individual (Title to be determined) educated in City priorities that reports directly to the MEDA Chairman/CEO and Executive Committee, to fulfill MEDA's scope of work. MEDA also agrees to provide qualified administrative staff.
2. It is understood and agreed that MEDA will retain the consulting services of IO.INC; said services to be articulated and agreed to in a separate agreement.

### **Oversight and Direction**

1. As collaborative and strategic partners for the economic development of the City of Maricopa, MEDA and the Maricopa City Council and City Manager agree to mutually seek advice, direction and performance feedback from each other for the purpose of ensuring that the parties are aligned and mutually supportive in their economic development goals, strategies and activities.

### **Term of Agreement**

1. This Agreement will be for a period of five (5) years from the date hereof with automatic renewal after the contract period in five-year increments. At any time, either party may provide written notice at least twelve (12) months in advance of its intention to cancel this Agreement with or without cause.

2. This Agreement is subject to a for cause termination. Either party may provide written notice with identified material cause and opportunity to resolve within one hundred twenty (120) days. Identified material cause may include, but is not limited to, persistently and repeatedly refusing or failing to complete the duties and expectations as set forth in this Agreement. Either party shall have up to fifteen (15) business days after receipt of a for cause notice to respond with a timeline to cure the defects identified. City and MEDA agree to use reasonable efforts to cooperate towards a resolution and continued Agreement. If after reasonable efforts the parties are unable to resolve defects within a one hundred-twenty (120) day period, then the Party that provided written notice has the sole discretion of terminating this Agreement by providing written notice of termination to the other Party. The Parties shall then have at least a six (6) month period to wind down this Agreement before the termination is effective. During this time, both Parties agree to work cooperatively to transfer all existing City projects in a reasonable and professional manner. Consultant shall be paid for all services performed through the date the termination is effective.
3. If this Agreement is terminated, MEDA shall deliver to City all work in any state of completion at the date of effective termination.

### **Contract Fee**

1. In accordance with the terms and conditions of this Agreement, City shall compensate MEDA for its services as follows: \$435,000 For Fiscal Year 2019-2020 (July 1, 2019 through June 30, 2020) (to be distributed on a quarterly basis). For the remainder of the term of this Agreement, MEDA shall present a proposed budget to the City Manager no later than March 1 of each year beginning March 1, 2020, which will be reviewed, adjusted and approved by City Council as part of the City's annual budget process. The City shall compensate MEDA based on negotiated scope of work and/or additional services on a year to year basis and in accordance with a similar pattern of private contribution increase as present.
2. MEDA and City agree that the fee for these services may be adjusted on an annual basis based on adjustments to the Agreement. The Parties agree that if the annual contract fee is reduced by the City, MEDA will make corresponding changes in the level of services commensurate to any reduction in contract fees.
3. MEDA shall establish an annual plan of work (Annual Action Plan) that includes a budget, staffing, tasks and the programs and actions to be taken by MEDA during the forthcoming fiscal year, including goals, action items, and performance metrics to be used to manage and measure progress in implementing the Annual Action Plan commensurate with the amount being paid by the City. The Annual Action Plan and Performance Metrics shall be approved by the MEDA Board and the City Manager each year. The Annual Plan and Performance Metrics may be adjusted periodically by mutual consent of the MEDA Board and the City. The Annual Action Plans will be completed and provided to the City no later

than May 1<sup>st</sup> of each year of this Agreement and will be incorporated into this Agreement as performance metrics for MEDA.

4. MEDA shall continue to maintain and grow private/business contributions in support of MEDA activities in similar amounts to the present donations.

### **City Responsibilities**

1. City will actively align and coordinate its economic development activities and efforts to ensure that such activities and efforts are supportive of and aligned with the MEDA Annual Action Plan and the applicable strategies in the City's adopted economic development strategy to ensure no duplication of effort or conflict.
2. City agrees to evaluate and consider for implementation MEDA Board-approved recommendations on policies to improve the City's economic development competitiveness and market readiness to support MEDA's business recruitment and retention activities.
3. City will coordinate with MEDA to develop, monitor, benchmark, assess and implement an effective local business retention and expansion strategy.
4. City will participate with MEDA planning processes to help ensure that the Annual Plan and operating protocols incorporate the City's priorities.
5. City will respond to leads or prospects referred by MEDA in a timely and professional manner pursuant to protocols established by MEDA and approved by the City.
6. City will participate in the MEDA led marketing and business development activities designed to promote the City as a business location.