



**VISIT ARIZONA INITIATIVE (VAI) OUTDOOR TOURISM REVITALIZATION GRANT
AGREEMENT
NO. GR-ARPA-11122021-03-005**

Between the

**STATE OF ARIZONA
ARIZONA OFFICE OF TOURISM**

And the

CITY OF PEORIA

This Grant Agreement (“Agreement”) is entered into by and between the State of Arizona (the “State”), the Arizona Office of Tourism (“AOT”), located at 1110 W. Washington St., #155, Phoenix, AZ 85007 and City of Peoria (“CoP”) located at 8401 W. Monroe St. Peoria, AZ 85345.

WHEREAS, A.R.S. § 41-101.01 authorizes the Office of the Governor to execute and administer contracts and is charged with the responsibility of administering the Coronavirus State and Local Fiscal Recovery Funds allocated to the State. The C.F.D.A. number for all activity pursuant to this agreement is 21.027.

WHEREAS, this Agreement is entered into under the authority of A.R.S. §41-2702-2703 and the solicitation waiver issued March 3, 2020 by the Arizona Department of Administration, which authorizes grant agreements.

THEREFORE, it is agreed that the AOT shall provide funding to CoP for services under the terms of this Agreement.

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to authorize use and provide funds from the American Rescue Plan Act (“ARPA”) to CoP to support the tourism industry. The State was significantly impacted by COVID-19, resulting in lost revenue and related jobs. The Visit Arizona Initiative (VAI) Grant Program was created to provide recovery assistance to the State’s tourism industry and funding through this Agreement supports projects that will contribute to that effort.

Under this Agreement, services must be provided by CoP in compliance with the rules of the ARPA. The most current published rules can be found at: [Treasury’s Interim Final Rule; https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf](https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf).

II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS

This Agreement shall be effective November 12, 2021 and shall terminate on November 12, 2023, contingent upon funding.

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Either party may terminate this Agreement at any earlier time by providing written notice to the other party at least thirty (30) calendar days prior to the termination date. AOT agrees that regardless of its termination date of this Agreement, CoP may use the funds distributed under this Agreement to pay for any unpaid services already provided pursuant to this Agreement or obligated prior to the termination date.

Amendments to this Agreement shall be made in writing signed by both parties.

III. DESCRIPTION OF SERVICES

CoP shall:

1. Utilize funding to support the approved efforts consistent with the funding provided by the State via the Visit Arizona Initiative (VAI) Grant Program.
2. Maintain an AOT approved tracking of total payments and report to AOT on metrics to be established through discussion between CoP and AOT as additional ARPA guidance becomes available.
3. Utilize the State's "The Grand Canyon State" logo on all project materials. The logo and the words "The Grand Canyon State" must be legible. Logos are available [HERE](#).

IV. MANNER OF FINANCING

AOT shall:

1. Provide to CoP \$29,260 upon execution of this Agreement, for costs associated with [services] activities referenced in Attachment A, CoP's Proposal, incorporated into this Agreement by this reference in its entirety.
2. Transfer any unused funding pursuant to this Agreement at the termination date back to AOT.
3. Use the C.F.D.A. No. is 21.027 for all activity associated with this Agreement.
4. Resolve any questions regarding the appropriate use of the funds by mutual written agreement between CoP and AOT; provided, that AOT has final say on the appropriate use of funds.

CoP shall:

1. Resolve questions regarding the appropriate use of the funds by mutual agreement between the CoP and AOT provided, that AOT has final say on the appropriate use of funds.
2. Use the C.F.D.A. No. is 21.027 for all activity associated with this Agreement.
3. Provide to AOT proof of funding match when requested.

V. REPORTING REQUIREMENTS

CoP shall submit quarterly programmatic and financial reports to AOT for all expenditures incurred under this Agreement. The report deadlines are set below.

Q3 January 1 - March 31, 2022 (Report Due: April 1, 2022)

Q4 April 1 - June 30, 2022 (Report Due: July 1, 2022)

Q1 July 1 - September 30, 2022 (Report Due: October 3, 2022)

Q2 October 1 - December 31, 2022 (Report Due: December 30, 2022)

The format for these reports will be developed by AOT with input and direction from the Governor's Office to ensure proper reporting of quantifiable impact metrics as required under Federal guidance and per the executed Inter-State Agreement between AOT and the Governor's Office. Current metrics are based on U.S. Treasury's expenditure category "2.11 Aid to Tourism, Travel or Hospitality" but these may be adjusted and/or other metrics added as needed:

- A. Sector of employer
- B. Purpose of funds
- C. Impact of projects funded

VI. DOCUMENTS INCORPORATED BY REFERENCE

The State's Uniform Terms and Conditions V9_ (Rev 7-1-2013) are incorporated into this document as if fully set forth herein. Copies of the Uniform Terms and Conditions may be accessed [HERE](#). CoP warrants that it has read and understands the Uniform Terms and Conditions V9_ (Rev 7-1-2013) and agrees to be bound to those applicable provisions by them in their entirety. In the event of any divergence between this Agreement and the Uniform Terms and Conditions, this Agreement shall control.

VII. NON-AVAILABILITY OF FUNDS

In accordance with A.R.S. § 35-154, every payment obligation of AOT under the Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by AOT at the end of the period for which funds are available. No liability shall accrue to AOT in the event this provision is exercised, and AOT shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

VIII. AUDIT

In accordance with A.R.S. § 35-214, CoP shall retain and shall contractually require each grant recipient and sub-contractor to retain all data, books and other records ("records") relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the AOT at reasonable times. Upon request, CoP shall produce the original of any or all such records.

IX. CONFLICT OF INTEREST

In accordance with A.R.S. § 38-511, AOT may within three years after execution cancel the Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of AOT, at any time while the Agreement is in effect, becomes an employee or agent or any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the matter of the Agreement.

X. INDEMNIFICATION CLAUSE:

CoP shall indemnify, defend, save and hold harmless the State, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of CoP or any of its owners, officers, directors, agents, employees or sub-contractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of CoP to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by CoP from and against any and all claims. It is agreed that CoP recipient will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, CoP agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by CoP for the State.

This indemnity shall not apply if CoP or sub-contractor(s) is/are an agency, board, commission or university of the State.

XI. INSURANCE REQUIREMENTS PROFESSIONAL SERVICES:

CoP and sub-contractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by CoP, its agents, representatives, employees or sub-contractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The State in no way warrants that the minimum limits contained herein are sufficient to protect CoP from liabilities that might arise out of the performance of the work under this Agreement by CoP, its agents, representatives, employees or sub-contractors, and CoP is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: CoP shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000

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- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the CoP”.**
- b. Policy shall contain a waiver of subrogation against the State, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of CoP.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of CoP, involving automobiles owned, leased, hired or borrowed by CoP”.**
- b. Policy shall contain a waiver of subrogation against the State, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of CoP.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of CoP.
- b. This requirement shall not apply to: Separately, each CoP or sub-contractor exempt under A.R.S. 23-901, and when CoP or sub-contractor executes the appropriate waiver (Sole Proprietor/Independent grant recipient) form.

4. Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

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- a. In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, CoP warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.
 - b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Agreement.
- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
 1. The State, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by CoP, even if those limits of liability are in excess of those required by this Agreement.
 2. CoP's insurance coverage shall be primary insurance with respect to all other available sources.
 3. Coverage provided by CoP shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
- C. **NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this Agreement in the insurance policies above shall require (30) days written notice to the State. Such notice shall be sent directly to **the Arizona Office of Tourism, 1110 W. Washington St., Suite 155, Phoenix, Arizona 85007** and shall be sent by certified mail, return receipt requested.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect CoP from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** CoP shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of Agreement.

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All certificates required by this Agreement shall be sent directly to **the Arizona Office of Tourism, 1110 W. Washington St., Suite 155, Phoenix, Arizona 85007**. The State project/agreement number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

- F. SUB-CONTRACTORS:** CoP certificate(s) shall include all sub-contractors as insureds under its policies **or** CoP shall furnish to the State separate certificates and endorsements for each sub-contractor. All coverages for sub-contractors shall be subject to the minimum requirements identified above.
- G. APPROVAL:** Any modification or variation from the insurance requirements in this Agreement shall be made by AOT in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Agreement amendment, but may be made by administrative action.
- H. EXCEPTIONS:** In the event CoP or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If CoP or sub-contractor(s) is/are a State agency, board, commission, or university, none of the above shall apply.

XII. OTHER

It is agreed that the parties to this Agreement have participated fully in the negotiation and preparation of the Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The parties acknowledge they have been advised by counsel, or have had the opportunity to be advised by counsel, in the negotiation and execution of the Agreement.

XIII. NOTICES

CoP shall address all notices relative to this Agreement to:

Lena Allen
Senior Community Affairs Manager
Arizona Office of Tourism
1110 W. Washington St., Suite 155, Phoenix, Arizona 85007
Email: lallen@tourism.az.gov

AOT shall address all notices relative to this Agreement to:

Brandon Putman
Field Operations and Planning Services Manager
City of Peoria
8401 W. Monroe St., Peoria, AZ 85345

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Email: Brandon.Putman@peoriaaz.gov

IN WITNESS WHEREOF, the parties hereto agree to execute this Agreement.

CITY OF PEORIA

THE ARIZONA OFFICE OF TOURISM

Brandon Putman Date
Field Operations and Planning Services
Manager

Debbie Johnson Date
Director

Alix Skelpsa Ridgway Date
Director of Government & Community Affairs

AOT Grant Review:

Cathy Carlat, Mayor

Date Signed

ATTEST:

Lori Dyckman, Acting City Clerk

APPROVED AS TO FORM:

Vanessa P. Hickman, City Attorney