

**GRANT-IN-AID AGREEMENT
BETWEEN
THE TOHONO O’ODHAM NATION
AND
CITY OF PEORIA**

THIS GRANT-IN-AID AGREEMENT (“Agreement”) is between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the CITY OF PEORIA, a political subdivision of the State of Arizona (“Recipient”).

RECITALS

The Nation desires to convey to Recipient a portion of its annual 12% local revenue-sharing contribution (“Contribution”) to be paid to local governments for governmental services that benefit the general public.

The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Nation with Federal, State, and local governments.

The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State, and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

Under A.R.S. § 5-601.02(H)(4), Recipient may receive monies from the Nation for services identified by the Nation that benefit the general public, including public safety, mitigation of gaming impacts, and promotion of commerce and economic development.

The Recipient is authorized by A.R.S. § 11-951 through § 11-954 to enter into agreements for joint or cooperative actions with public agencies.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

AGREEMENT

- 1. Purpose.** The purpose of this Agreement is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined. The Recipient may enter into a separate agreement with any subrecipient identified herein.
- 2. Contribution.** On execution of this Agreement, the Nation will issue payment to the Recipient in the amount described in Schedule A (the “Contribution”) for the purpose(s) detailed in Schedule A.

3. Disbursement of Contribution.

- a. **Disbursing Contribution and Recordkeeping.** The Recipient is responsible for disbursing the Contribution consistent with this Agreement. Within a reasonable time following receipt of the Contribution from the Nation, the Recipient shall distribute the Contribution per Recipient policies and procedures governing the disbursement of these funds. The Recipient shall keep and maintain records relating to the disbursements and this Agreement.
- b. **Post-Disbursement Responsibilities.** When applicable, the parties agree that the Recipient may be acting as a conduit for distribution of the Contribution to a non-Recipient entity. Upon distribution of the Contribution to a non-Recipient entity as identified in Section 2 of this Agreement, the Recipient shall have no further responsibility to the Nation with respect to such funds or the use thereof by the non-Recipient entity. Therefore, upon the Recipient's disbursement of the Contribution to a non-Recipient entity as provided in Section 2, the Nation shall release the Recipient from any and all claims, demands, debts, liabilities, or obligations that may arise in the event that a non-Recipient entity fails to expend the Contribution in accord with Section 2. The Nation further agrees that the Recipient shall have no obligation to reimburse the Nation the amount of the Contribution after the Recipient disburses the Contribution to a non-Recipient entity and that the Nation shall look solely to the non-Recipient entity for repayment of the Contribution if the Contribution is not used for the intended purposes.

4. Term and Termination.

- a. **Effective Date.** This Agreement shall become effective when all parties have signed. The date this Agreement is signed by the last party, as indicated by the date associated with the party's signature, shall be deemed the Effective Date.
- b. **Term.** This Agreement shall commence upon the Effective Date and will continue for twelve (12) months unless terminated earlier ("End Date"). The Nation, in its discretion, may approve in writing any request by Recipient for a no-cost extension, including amending the End Date and adjusting any affected reporting requirements.
- c. **Termination by Nation.** The Nation may terminate this Agreement with or without cause at any time by providing the Recipient fifteen (15) days advance notice in writing. If the Nation terminates this Agreement after the Recipient receives the Contribution but before the Recipient disbursed the Contribution in accord with Section 2, the Nation shall include in the notice of termination specific instructions regarding disposition of the Contribution.
- d. **Termination by Recipient.** All parties acknowledge that this Agreement may be subject to cancellation by the Recipient per A.R.S. § 38-511.

- 5. **Money Unclaimed.** If the Recipient fails to accept the Contribution on or before December 15, 2018, this Agreement will be deemed to have been terminated by the Recipient and the Nation will award the Agreement Contribution to another applicant.

6. **Monitoring, Review, and Audit.** The Nation may monitor and review Recipient's use of the Contribution, performance of the project funded thereunder, and compliance with this Agreement, which may include onsite visits to assess Recipient's governance, management and operations, to discuss Recipient's program and finances, and review relevant financial and other records and materials. In addition, the Nation may conduct audits, including onsite audits, at any time during the term of this Agreement, and within three years after the Contribution has been fully spent. Any onsite visit or audit shall be conducted at the Nation's expense, following prior written notice, during normal business hours, and no more than once during any twelve (12) month period.
7. **Dispute Resolution.** The parties mutually agree that any disputes arising pursuant to this Agreement shall be resolved through informal dispute resolution. For all disputes arising under this Agreement the Nation and the Recipient shall first attempt to negotiate a resolution. Unless prohibited by Arizona law, all disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the laws of the Nation.
8. **Reports:** If applicable, the Recipient will submit a final report to the Nation within 30 days of the End Date of this Agreement explaining how and when the funds provided under this Agreement were used. This report may be in the form of an affidavit signed by an officer of the Recipient and may be accompanied by supporting documentation. The report must address: (i) changes in the scope of the project or purchase funded under this Agreement, (ii) the total expenses under the project or purchase funded by the Agreement, (iii) a brief description of who has benefited from this Agreement, and (iv) the Recipient's next steps with regard to the project or purchase made under this Agreement.
9. **Notices.** Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation:

Edward D. Manuel, Chairman
Tohono O'odham Nation
P.O. Box 837
Sells, Arizona 85634
Fax: 520-383-3379

and

Executive Counsel
Tohono O'odham Nation
P.O. Box 837

Sells, Arizona 85634
Fax: 520-383-3379

If to the Recipient:

Name: Chris Hallett, Director, Neighborhood and Human Services Dept.
Address: 8401 W. Monroe
City, State, Zip: Peoria, AZ 85345
Email: Chris.Hallett@Peoriaaz.gov
Phone: 623-773-7955

and

Name: Vanessa Hickman, City Attorney
Address: 8401 W. Monroe
City, State, Zip: Peoria, AZ 85345
Email: Vanessa.Hickman@Peoriaaz.gov
Phone: 623.773.7331

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

- 10. Entire Agreement, and Amendments.** This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incident hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 11. Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship which would impose liability upon one party for the act or failure to act of the other party.
- 12. No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
- 13. Severability.** If any provision of this Agreement shall be found invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 14. Counterparts and Electronic Signatures.** This Agreement is executed in three (3) duplicate originals. Except as may be prohibited by applicable law or regulation, this

Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

15. Sovereign Immunity. Nothing in this Agreement shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

This Agreement is signed on behalf of the parties:

TOHONO O'ODHAM NATION

Edward D. Manuel, Chairman

Date

CITY OF PEORIA

Cathy Carlat, Mayor
City of Peoria

Dated _____

Attest

Approved as to form found to be within the
power and authority of the City of Peoria under
the laws of the State of Arizona

Additional Signature Required

Vanessa P. Hickman, City Attorney
City of Peoria

Rhonda Geriminsky, City Clerk
City of Peoria

Schedule A

Program	Project	Contribution
City of Peoria, Community Services Department	Portable Community Stage	\$61,900
Arizona Broadway Theatre	Mainstage Productions	\$25,000
Western Maricopa Education Center	Student Credentials	<u>\$9,936</u>
	Total	\$96,836