

CHAMBER OF COMMERCE APPROPRIATION AGREEMENT
Town of Prescott Valley, Arizona

THIS AGREEMENT, entered into this 10th day of July, 2014, by and between the Town of Prescott Valley, a municipal corporation of Arizona (hereinafter the "TOWN"), and the Prescott Valley Chamber of Commerce, an Arizona corporation (hereinafter the "CHAMBER");

WITNESSETH:

WHEREAS, ARS §9-493 authorizes Arizona cities and towns with populations of 60,000 or less to annually appropriate from their general funds up to forty thousand dollars (\$40,000.00) or three-tenths (3/10) of one percent (1%) of the assessed valuation in the city or town (whichever sum is greater) for the purpose of encouraging immigration, new industries and investment in the city or town, and for printing and distributing books, pamphlets and maps advertising the advantages of the city or town, and to pay such amounts to chambers of commerce for those purposes; and

WHEREAS, ARS §9-500.11 further authorizes cities and towns to spend public monies for and in connection with economic development activities, including any project, assistance, undertaking, program or study, whether within or outside the boundaries of the city or town, including acquisition, improvement, leasing or conveyance of real or personal property or other activity, that the governing body of the city or town has found and determined will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the city or town; and

WHEREAS, the TOWN previously entered into Agreements with the CHAMBER dated October 31, 1990, July 1, 1993 and July 1, 1994 (effective through June 30, 1997) to appropriate sums as financial support of the CHAMBER in return for forty percent (40%) of its Executive Director's time being dedicated to enhancing existing business, developing tourism opportunities, and attracting new industry and investment to the TOWN; and

WHEREAS, in early 1996, the TOWN Council began to explore with the CHAMBER and with a group of local business persons other options for attracting new industry and investment to the TOWN; and

WHEREAS, in the course of such explorations, the CHAMBER indicated a desire to focus its primary attention and resources on retention and development of existing business and development of tourism, and to move to a supporting role in the attracting of new industry and investment; and

WHEREAS, on December 19, 1996, the TOWN entered into an Agreement for Economic Development Services with the newly-created Prescott Valley Economic Development Foundation (PVEDF) whereby the TOWN appropriated sums as financial support of PVEDF in return for PVEDF's full-time efforts to attract new industries and investment to the TOWN); and

WHEREAS, by Resolution No. 750 (dated March 27, 1997) the TOWN Council adopted as part of its General Plan the "Prescott Valley Strategic Plan for Economic Development", written as part of the Focused Future Program; and

WHEREAS, said Strategic Plan set forth a coordinated and cooperative economic development effort between the TOWN, PVEDF, and the CHAMBER; and

WHEREAS, at its regular meeting held July 24, 1997, the TOWN Council entered into an Agreement with the CHAMBER to appropriate sums as financial support of the CHAMBER in return for economic development services and promotional and programming services for the Amphitheater at Mountain Valley Park ("Amphitheater 1") through June 30, 1998; and

WHEREAS, at its regular meeting held July 9, 1998, the TOWN Council entered into a two year Agreement with the CHAMBER for economic development services and Amphitheater 1 promotional and programming services through June 30, 2000 (corresponding with the period of the Economic Development Service Agreement between the TOWN and PVEDF); and

WHEREAS, at its regular meeting held June 22, 2000, the TOWN Council renewed the Agreement with the CHAMBER for economic development services and Amphitheater 1 promotional and programming services through June 30, 2001; and

WHEREAS, at its regular meeting held August 9, 2001, the TOWN Council renewed the Agreement with the CHAMBER for economic development services, and expanded promotional and programming services [to include the new amphitheater at the Civic Center ("Amphitheater 2")], through June 30, 2002 (corresponding with the period of the related Agreement between the TOWN and PVEDF); and

WHEREAS, the TOWN Council entered into a three (3) year Agreement with the CHAMBER for economic development and promotional and programming services in FY 2002-2003, 2003-2004 & 2004-2005, referenced the Focused Future II Plan, and provided other detail and specificity to the Agreement; and

WHEREAS, on June 23, 2005, the TOWN Council entered into an additional three (3) year Agreement with the CHAMBER for economic development and promotional and programming services in FY 2005-2006, 2006-2007 & 2007-2008, referenced the Focused Future II Plan, and provided other detail and specificity to the Agreement; and

WHEREAS, on June 26, 2008, the Town Council entered into another 3-year Agreement with the CHAMBER for economic development and promotional and programming services in FY 2008-2009, 2009-2010, & 2010-2011; and

WHEREAS, on June 23, 2011, the Town Council entered into another 3-year Agreement with the CHAMBER for economic development and promotional and programming services in FY 2011-2012, 2012-2013, & 2013-2014; and

WHEREAS, the Town Council desires now to enter into another 3-year Agreement with the CHAMBER for economic development and promotional and programming services in FY 2014-2015, 2015-2016, & 2016-2017.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, the parties hereto agree as follows:

1. GENERAL FUNDING. During Fiscal Year 2014-2015, the TOWN shall appropriate to the CHAMBER as financial support the total amount of up to \$103,275.00 (more specifically set forth in Exhibit "A", attached hereto and expressly made a part hereof), remitted in the amount of \$8,606.25 at the beginning of each month during the term, and an additional payment of \$10,000 by August 15, 2014 to be spent at the direction of the Tourism Committee over the course of the fiscal year. Funding for Fiscal Years 2015-16 and 2016-17 shall be established during the annual adoption of the budget. In the event this Agreement is terminated prior to its full term (as provided for hereinafter), such appropriations shall be discontinued.

2. STAFFING. At all times during the term of this Agreement, the CHAMBER shall employ an Executive Director and such other employees as the CHAMBER may determine necessary to perform under this Agreement in addition to its other activities. In the event an Executive Director is not employed by the CHAMBER for a period greater than ninety (90) days during the term of this Agreement, the amounts appropriated by the TOWN hereunder may be unilaterally reduced by the TOWN to account for reduced CHAMBER expenditures and reduced economic development efforts by the CHAMBER.

3. ECONOMIC DEVELOPMENT SERVICES. The CHAMBER's economic development services under this Agreement shall be guided by the responsibilities and expectations set forth in the 2007 economic development strategic plan Focus on Success. In addition, the CHAMBER's economic development services shall be as follows:

Business Retention and Expansion:

- Maintaining a record of business visits, including (but not limited to) name, address, retention and expansion issues identified, proposed course of action, and action taken;

- Maintaining a record of individuals requesting information from the CHAMBER about starting or expanding a business in Prescott Valley;

- Maintaining a CHAMBER website to provide ready access to business starting and expanding information, including (but not limited to) updating said information no less than once in a calendar month;

- Coordinating CHAMBER business retention and expansion efforts with related TOWN and PVEDF efforts to attract new commercial and industrial businesses, including (but not limited to) (a) monitoring and reporting to the TOWN plans by local businesses to expand or relocate, (b) referring to the TOWN's Economic Development Manager any inquiries or leads regarding new retail businesses, and (c) referring to PVEDF any inquiries or leads regarding other new commercial and industrial businesses (subject only to any requests for confidentiality, in which case the CHAMBER shall disclose what information it can and permit the TOWN and PVEDF to provide any requested information); and
- Providing networking opportunities for local businesses, including (but not limited to) sponsoring a (a) Business, Health and Community Showcase, (b) quarterly breakfast, and (c) regular business mixers.

Tourism/Community Promotion:

- Develop, publish, update and distribute (a) tourist materials, including (but not limited to) calendars of events, lists of activities, and maps, and (b) relocation materials, including (but not limited to) demographic summaries, real estate listings, and job listings;
- Maintaining on the CHAMBER website ready access to electronic versions of the tourist and relocation materials;
- Maintaining a record of all inquiries for tourist and relocation materials, including (but not limited to) mode of request and geographic origin of request;
- Continued CHAMBER sponsorship of its "Prescott Valley Days";
- Continuing CHAMBER sponsorship of the non-sectarian "Fain Park Holiday Display" or "Valley of Lights"*;

*The CHAMBER shall construct, purchase or otherwise obtain, install, maintain, remove, store and repair at its sole expense appropriate, non-sectarian Thanksgiving, Christmas and/or New Year's holiday displays for Fain Park at locations designated by the TOWN and at times mutually agreed-upon by the TOWN and the CHAMBER. The CHAMBER shall provide necessary traffic control and security.

- Continuing CHAMBER sponsorship of the "Festival of Lights"; and
- Continuing CHAMBER sponsorship of the "Team Up to Clean Up" campaign.

- CHAMBER shall seek out grants from the Arizona Office of Tourism and other sources and may use funding from the TOWN as matching funds for these grants.
- CHAMBER shall provide the TOWN complimentary advertising in the CHAMBER produced map as well as provide two complimentary inserts into the CHAMBER newsletter.
- CHAMBER shall provide the TOWN one complimentary booth at the annual Business, Health, and Community showcase.
- CHAMBER shall maintain a Tourism Committee to promote Prescott Valley as a destination for tourists. The Town Council shall be allowed a seat on this committee. CHAMBER shall report to the Town quarterly on how this funding was spent.

In its performances hereunder, the CHAMBER shall provide (at its own expense) all necessary labor, work spaces, equipment, transportation, communications, utilities, compensation, insurance, benefits, licenses, supervision and training for its officers, employees and agents, unless separate arrangements therefore are made with the TOWN. With regard to the "Fain Park Holiday Display", the TOWN expressly agrees to maintain the roadways, electrical service and other public improvements necessary therefore, and to pay the electrical costs related thereto during the term of this Agreement.

4. AMPHITHEATER SERVICES. In addition to the CHAMBER's economic development services, the CHAMBER (through its staff and an appointed sub-committee) shall participate with the TOWN's Parks and Recreation Director in the mutually agreed-upon promotion and programming of Amphitheater 1 and Amphitheater 2 (together, the "Amphitheaters") for the 2014-2015, 2015-2016, & 2016-2017 Concert and Event Series, as follows:

- # Attracting quality performers to the Amphitheaters (within the budget available), negotiating performance contract terms, and developing good working relationships with performing acts, booking agents, and handlers (so as to develop a quality reputation for the Amphitheaters);
- # Organizing venue operations (including lighting, sound, staging, box office, seating, security, vending, backstage, VIP accommodations, parking, and other needed arrangements);
- # Overseeing all phases of event-day operations to ensure the smoothest operation possible within the circumstances;
- # Developing good relationships with all media outlets to ensure the best possible market penetration (within the budget available);

- # Soliciting sponsorships for the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series by contacting eligible persons, businesses and organizations, and securing Agreements from the same to contribute money or provide other consideration in favor of such Event Series (eligible persons, businesses and organizations being those that the TOWN's Parks and Recreation Director does not indicate are already sponsoring other TOWN events or projects and are therefore not to be contacted by CHAMBER agents);
- # Obtaining written commitments for sponsorships and providing the same to the TOWN's Parks and Recreation Director (as instructed from time to time by the Director);
- # Arranging for pledged monies to be delivered directly to the TOWN (as instructed from time to time by the TOWN's Parks and Recreation Director);
- # Upon receiving notice from the TOWN that pledges have been received from sponsors, arranging for delivery of authorized sponsorship benefits;
- # Developing and maintaining good relationships with current and potential sponsors in order to best promote the TOWN, the Amphitheaters, and the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series;
- # Providing beer and wine for sale to legal-age patrons at designated events at the Amphitheaters in compliance with all applicable local, state and federal laws and permits, and in accordance with the following requirements:
 - Pursuant to ARS §4-203.02(B), acquiring the TOWN alcohol permit required by TOWN Code §10-02-060 and the necessary state special event liquor license from the Arizona Department of Liquor Licenses and Control, and providing the TOWN with proof of receipt prior to the designated events (along with the CHAMBER's state and local tax numbers);
 - Arranging for a qualified vendor to acquire and serve beer and wine at the designated events;
 - Arranging for the vendor to acquire Dram Shop Insurance covering each of the designated events in the minimum amount of \$1,000,000.00 combined single limit, naming the CHAMBER and the TOWN as additional insureds;
 - Arranging for the vendor's employees to require all patrons purchasing beer or wine to show proof of legal age, and follow other necessary procedures to ensure that only legal-age patrons purchase beer and wine throughout designated events, that beer and wine not be dispensed to persons who are

intoxicated, and that any other state requirements with regard to identification and serving practices be met;

- Cooperating with and assisting TOWN staff in clean up operations after the events; and
- Otherwise operating the alcohol concession in accordance with industry standards and practices, and in compliance with applicable federal, state, and local laws and regulations, and this Agreement.

Nothing herein precludes the parties hereunder from mutually agreeing that services for the Amphitheaters (including the provision of beer and wine for sale) may be provided by a third party for any one or more events in the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series, in accordance with a separate Agreement between the TOWN and said third party.

5. COMPENSATION FOR SERVICES AT AMPHITHEATERS. In addition to the general financial support provided for in Section 1 above, the CHAMBER shall be compensated for its participation in promoting and programming the Amphitheaters for the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series, as follows:

- # The CHAMBER shall be paid twenty-five percent (25%) of all revenues directly generated by its officers, employees or agents soliciting financial sponsorships for the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series, payable no later than one (1) business day after the final Council meeting of each month for sponsorships received by the TOWN during the prior month;
- # The CHAMBER shall be paid 25% of the revenues received from food and non-alcohol concession vendors at designated events at the Amphitheaters in accordance with standard TOWN vendor Agreements, in cases where CHAMBER officers, employees or agents have actually arranged for said vendors, payable within ten (10) business days following the designated event; and
- # The CHAMBER shall retain the "net revenues" derived from any alcohol sales by its vendor at designated events, except for forty percent (40%) of such revenues which shall be paid to the TOWN. "Net revenues" are defined as all sums of money collected from the sale of beer and wine, minus "necessary expenditures" involved in providing the sales. "Necessary expenditures" are defined as:
 - Wholesale costs of the beer and wine
 - Wholesale costs of serving glasses
 - Dram Shop Liability insurance costs attributable to the event
 - TOWN permit and State license costs

"Necessary expenditures" do not include the percentage of gross revenues (25%) required by ARS §4-203.02(E) to be paid to "qualified organizations" as consideration for use of their special event liquor license. Inasmuch as that money also goes to the CHAMBER, it is intended to be covered by the "net revenues" retained by the CHAMBER as listed above. However, if that percentage of "net revenues" does not equal the **sum** of the CHAMBER vendor's actual labor and equipment costs plus the percentage of gross revenues required by ARS §4-203.02(E), then the CHAMBER shall retain instead "net revenues" equal to that **sum**.

Original register receipts showing all sales shall be provided to the TOWN within one (1) hour after the close of designated events. [Note that a photocopied duplicate of the receipts will be provided back to the CHAMBER or its vendor upon request.] Within five (5) working days following designated events, an expenditure list (with accompanying receipts) shall be provided to the TOWN. After review and approval of the list by TOWN staff, payment of the TOWN's revenue share shall be received by the TOWN no later than ten (10) working days following the designated event. The form of payment may include cash, cashier's check or money order.

In the event of adverse weather, equipment failures, labor disputes, criminal activity, civil unrest, accidents, illnesses, Acts of God, or other reasons beyond the reasonable control of either party that threaten the cancellation of planned events, each party shall make a good faith effort towards successfully holding the event. However, in such circumstances the parties acknowledge and accept the possibility of loss of revenue or loss of compensation in the event the events must be canceled by the TOWN, and each party agrees to hold the other harmless in the event thereof.

Should this Agreement be terminated by either party prior to its full term (as provided for hereinafter), the CHAMBER shall be compensated for promotion and programming services actually performed for the Amphitheaters in accordance with this Agreement (but expressly not any percentages relating to events arranged for but not yet held), payable no later than the TOWN's final pay day for the calendar month following termination. With regard to sponsorships, the CHAMBER shall be paid for monies actually received by the TOWN pursuant to sponsorship Agreements obtained by CHAMBER officers, employees, or agents up to the date of the notice of termination.

Nothing herein precludes TOWN staff from directly or indirectly arranging for sponsorship Agreements for TOWN projects or events (expressly including events at the Amphitheaters) independent from those arranged for by the CHAMBER under this Agreement (so long as the same do not conflict with the terms of this Agreement), and to retain any contributions or donations related thereto. Moreover, any sums given to the TOWN as contributions or donations for events at the Amphitheaters, not secured as a result of efforts made by

CHAMBER officers, employees or agents under this Agreement, shall not be revenues to which the CHAMBER is owed a percentage hereunder. In soliciting sponsorships, CHAMBER officers, employees or agents shall take care not to offer benefits beyond those established in writing by the TOWN. CHAMBER officers, employees or agents shall also take care to only accept payments by check made out to the TOWN. CHAMBER officers, employees or agents shall not accept cash payments but may direct such payments to be made at the office of the TOWN Clerk.

Nothing herein precludes the parties hereunder from mutually agreeing that services to the amphitheaters (including the provision of beer and wine for sale) may be provided by a third party (and that said third party may be compensated therefore) for any one or more events in the 2014-2015, 2015-2016 & 2016-2017 Concert and Event Series, in accordance with a separate Agreement between the TOWN and said third party.

6. MOUNTAIN VALLEY PARK PAVILION USE. In accordance with the policy set forth in Section 6 of Resolution No. 1226 of the TOWN Council (dated October 9, 2003), or any successor resolution, the CHAMBER may schedule use of the Mountain Valley Park Pavilion for CHAMBER events that are open to the general public without paying required fees and deposits. However, the CHAMBER shall comply with all other Parks and Recreation Department rules and requirements related to such use, including any required reimbursements for damage to the Pavilion resulting from such events.

7. REPORTS. The CHAMBER shall provide to the TOWN the following reports on a quarterly basis:
 - # A summary analysis of all retention visits conducted during the quarter;
 - # The name and contacting information of individuals inquiring during the quarter about starting or expanding a business in Prescott Valley;
 - # A summary of all other economic development activities carried on under this Agreement during the quarter;
 - # A summary of inquiries during the quarter for tourist and relocation materials;
 - # A financial report for the quarter, including (but not limited to) an accounting of the funds appropriated under this Agreement.

8. TOWN LIAISON. The TOWN Council may, from time to time, appoint a person to attend CHAMBER Board meetings as a liaison on behalf of the TOWN in the event a TOWN

officer or employee is not currently serving on the CHAMBER Board of Directors, or at such other times as the TOWN Council may deem it appropriate.

9. TERM. Unless otherwise terminated as set forth in Section 11 hereinafter, the term of this Agreement shall be from July 1, 2014 and shall continue through June 30, 2017.

10. TIME OF THE ESSENCE. Time is of the essence in this Agreement.

11. DEFAULT AND TERMINATION. Failure or unreasonable delay by either party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of sixty (60) days (the "cure period") after written notice thereof from the other party, shall constitute a default under this Agreement. Provided, however, that if the failure or delay is such that more than 60 days would reasonably be required to perform such action or comply with any term or provision hereof, then such party shall have such additional time as may be necessary to perform or comply so long as such party commences performance or compliance within said 60-day period and diligently proceeds to complete such performance or fulfill such obligation. The notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible.

In the event such default is not cured within the cure period, the non-defaulting party shall have all rights and remedies which may be available in law or equity including, without limitation, the right to specifically enforce any term or provision hereof, the right to institute an action for damages, and/or the right to terminate this Agreement upon written notice and to receive in reimbursement any and all funds not properly expended for services rendered.

12. NOTICES AND DEMANDS. Unless otherwise specifically provided herein, all notices, demands, or other communications relating to this Agreement shall be in writing and shall be deemed to have been duly delivered upon personal delivery or as of the second business day after mailing by United States mail, postage prepaid, addressed as follows:

TOWN: Town of Prescott Valley
 c/o Town Manager
 7501 East Civic Circle
 Prescott Valley, AZ 86314

CHAMBER: Prescott Valley Chamber of Commerce
 c/o Executive Director
 7120 Pav Way Ste. 102
 Prescott Valley, AZ 86314

These addresses may be changed by either party by giving notice in writing. Such changes shall be deemed to have been effectively noticed five (5) days after being mailed by the party changing the address.

13. ACCOUNTING AND AUDITING. The CHAMBER shall keep accurate and complete records of its costs and expenditures in accordance with generally recognized accounting principles and practices. The TOWN (including its audit representatives) shall have the right at any reasonable time to examine, audit, and reproduce all records pertaining to such costs and expenditures, including (but not limited to) payrolls, employees' time sheets, invoices, and all other such evidences of costs and expenditures for the services provided hereunder. Such records shall be kept by the CHAMBER and made available for one (1) year after termination of this Agreement.
14. NO PARTNERSHIP OR JOINT VENTURE. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between the TOWN and the CHAMBER. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.
15. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that nothing in this Agreement is intended to make of the CHAMBER, its officers, employees, agents, and assigns, officers or employees of the TOWN. Rather, the CHAMBER, its officers, employees, agents, and assigns are independent contractors. As such, the CHAMBER is solely responsible for collection and payment of applicable federal, state, or local taxes and other charges (including, but not limited to, employment taxes, social security taxes, and payroll and other withholdings.), and acquisition and maintenance of required insurance (including, but not limited to, medical and workers' compensation insurance). CHAMBER officers, employees, agents and assigns shall not be entitled to TOWN employee benefits. All monies paid to the CHAMBER shall be recorded in accordance with the Internal Revenue Code under Form 1099.
16. NO AUTHORITY TO INCUR TOWN LIABILITIES. It is expressly understood that nothing herein authorizes the CHAMBER to enter into any contracts or Agreements with third-parties on behalf of the TOWN, nor to incur any debts or other liabilities on behalf of the TOWN, without the express authority of the TOWN. In particular, the CHAMBER may not establish secondary Agreements in an effort to induce sponsorships for Amphitheater events (other than agreeing to provide the benefits in the sponsorship program authorized by the TOWN).
17. LAWS AND REGULATIONS. The CHAMBER, its officers, employees, agents, and assigns, shall at all times comply with applicable laws, statutes, rules, regulations, and ordinances in their performance under this Agreement; including (without limitation) those governing wages, hours, employment discrimination, and safety. The CHAMBER, its

officers, employees, agents, and assigns, shall also comply with equal opportunity laws and regulations to the extent they are applicable.

18. INDEMNIFICATION AND HOLD HARMLESS. To the fullest extent permitted by law, the CHAMBER shall defend, indemnify and hold harmless the TOWN, its agents, officers, officials and employees for, from, and against all claims, damages, expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the CHAMBER, its agents, employees or any tier of the CHAMBER's subcontractors in the performance of this Agreement. The CHAMBER's duty to defend, hold harmless and indemnify the TOWN, its agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused IN WHOLE OR IN PART by the CHAMBER's acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the CHAMBER, any tier of the CHAMBER's subcontractors or any other person for whose acts, errors, mistakes, omissions, work or services the CHAMBER may be legally liable including the TOWN. Such indemnity does not extend to the TOWN's sole negligence.

Notwithstanding any other provision of this Agreement, this Section 18 shall continue in full force and effect beyond any termination of the Agreement. The amount and type of insurance coverages required hereinafter shall not be construed as limiting the scope of the indemnity in this Section.

19. INSURANCE. Without limiting any liabilities or other obligations of the CHAMBER hereunder, the CHAMBER shall, prior to commencing its work or services contemplated hereunder, secure and continuously carry with insurers authorized to do business in Arizona and possessing a current A.M. Best, Inc. Rating of B++6 or better, the following insurance coverages:

Commercial General Liability insurance with a limit of not less than \$1,000,000.00 for each occurrence, with a \$2,000,000.00 Products/Completed Operations Aggregate and a \$2,000,000.00. General Aggregate Limit. The policy shall include coverage for:

- Bodily Injury
- Broad Form Property Damage
- Personal Injury
- Products and Completed Operations, and
- Blanket Contractual (including, but not limited to, the liability assumed under the indemnification provisions of this Agreement).

The coverage shall be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The coverage shall not exclude X,C,U. The additional insured endorsement required hereinafter shall be at least as broad as the Insurance Office, Inc's Additional Insured, Form B, CG20101185, and shall include coverage for the CHAMBER's operations and products and completed operations.

- # Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000.00 each occurrence with respect to the CHAMBER's vehicles, whether owned, hired, or non-owned, assigned to or used in the performance of the work or services contemplated hereunder. Coverage shall be at least as broad as coverage code 1, "any auto" (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off-loading hazards.

As set forth in Sections 3 and 4 above, the CHAMBER shall provide (at its own expense) all additional insurance policies, insurance policy endorsements, or additional insured Agreements by insurers of third-party service providers as may be necessary to adequately cover the risk of the economic development, event and amphitheater services provided by the CHAMBER under this Agreement. Where possible, these insurance policies, endorsements and additional insured Agreements shall each name the TOWN, its officers, officials, employees, agents, successors, and assigns, as Additional Insureds.

The insurance policies required herein shall be maintained in full force and effect until all work or services contemplated hereunder are satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the TOWN, constitute a material breach of this Agreement. The insurance policies required herein shall be primary insurance, and any insurance or self-insurance maintained by the TOWN shall not contribute to it. Any failure to comply with the claim reporting provisions of the policies or any breach of any of the insurance policy warranties shall not affect coverage afforded under the policies to protect the TOWN. The insurance policies required herein shall contain a waiver of transfer rights of recovery (subrogation) against the TOWN, its officers, officials, employees, agents, successors, and assigns, for any claims arising out of the CHAMBER's work or services contemplated hereunder. The insurance policies may provide coverage which contains deductibles or self-insured retentions. However, such deductibles and/or self-insured retentions shall not be applicable with respect to the coverage provided to the TOWN under such policies. The CHAMBER shall be solely responsible for deductibles and/or self-insured retentions and the TOWN, at its option, may require the CHAMBER to secure the payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The TOWN reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein-required insurance policies and/or endorsements. The TOWN shall not be obligated, however, to review the same or to advise the CHAMBER of any deficiencies in such policies and endorsements, and such receipt shall not relieve the CHAMBER from, or be deemed a waiver of, the TOWN's right to insist on strict fulfillment

of the CHAMBER's obligations under this Agreement. Prior to commencing the work or services contemplated hereunder, the CHAMBER shall furnish the TOWN with Certificates of Insurance, or formal endorsements as required by the Agreement, issued by the CHAMBER's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect. Insurance evidenced by the Certificates of Insurance shall not expire, be canceled, or be materially changed without fifteen (15) days prior written notice to the TOWN. If a policy does expire during the term of this Agreement, a renewal certificate must be sent to the TOWN 15 days prior to the expiration date.

In the event any insurance policy(ies) required by this Agreement is(are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the CHAMBER's work or services contemplated hereunder, as evidenced by annual Certificates of Insurance.

20. ACCESS FOR THOSE WITH DISABILITIES. It is understood by the parties that under the Americans with Disabilities Act of 1991 and the Arizonans with Disabilities Act of 1992, employers must provide reasonable accommodations for employees who are disabled, and governmental entities and private businesses must provide for access by the disabled to their respective programs and services. The CHAMBER therefore agrees to comply with these Acts in its performances under this Agreement.
21. DRUG-FREE WORKPLACE. The parties understand that the TOWN has a policy of a drug-free workplace for itself and persons and entities doing business with it. The CHAMBER therefore agrees to be drug-free and to require its employees, agents and assigns to be drug free during their performances under this Agreement. "Drug-free" means refraining from the manufacture, distribution, dispensing, possession, and illegal use of controlled substances.
22. ONGOING OBLIGATION. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as are reasonably necessary from time to time to carry out the matters contemplated by this Agreement. Furthermore, the parties shall at all times act reasonably with respect to any and all matters which require either party to review, consent to, or approve any act or matter hereunder.
23. NON-EXCLUSIVE AGREEMENT. Nothing in this Agreement shall be construed as granting to the CHAMBER an exclusive right to engage in economic development or Amphitheater promotional/programming activities in Prescott Valley or on behalf of the TOWN. However, the TOWN shall endeavor to ensure that any other persons or entities involved in economic development or Amphitheater promotional/programming activities shall cooperate with and coordinate with the CHAMBER.

24. WAIVER OF BREACH. No waiver by either party of a breach of any of the provisions, covenants, or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other provision, covenant, or condition herein contained.

25. ASSIGNS, SUBCONTRACTORS, AND SUCCESSORS-IN-INTEREST. The CHAMBER shall not assign this Agreement, or any part thereof, without the prior written consent of the TOWN. Any attempted assignment in violation hereof shall be void. The CHAMBER shall be fully responsible for the acts or omissions of any of its subcontractors and of all persons employed by it. Nothing herein shall be deemed to create any contractual relationship between any of the CHAMBER's subcontractors and the TOWN.

Furthermore, any successors, executors, or administrators of the CHAMBER and any assignees of the CHAMBER's interests herein shall be bound to the TOWN to the full legal extent to which the CHAMBER is bound with respect to each of the covenants, conditions and promises of this Agreement.

26. CORPORATE STATUS AND AUTHORITY (CHAMBER). The CHAMBER represents and warrants that (a) it is a nonprofit corporation fully organized, validly existing, and in good standing under the laws of the State of Arizona, and (b) the execution, delivery, and performance of this Agreement has been duly authorized by the responsible officers thereof.

27. CORPORATE STATUS AND AUTHORITY (TOWN). The TOWN represents and warrants that (a) it is a validly existing and incorporated municipal corporation of the State of Arizona, and (b) its execution, delivery, and performance of this Agreement has been duly authorized and entered into in compliance with its Town Code and any applicable Arizona statutes.

28. AWARDING OF COSTS. In the event any action shall be instituted between the parties in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs, including reasonable attorneys' fees.

29. CONSTRUCTION OF AGREEMENT. It is understood by the parties that this Agreement has been arrived at by mutual negotiation and shall not be construed against a party simply because it played the larger part in drafting the Agreement or because it prepared the final draft.

30. SEVERABILITY. In the event any phrase, clause, sentence, paragraph, section, or other portion of this Agreement shall become illegal, null, or void or against public policy for any

reason, or shall be held by any court of competent jurisdiction to be illegal, null, or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

31. CHOICE OF LAW AND VENUE. This Agreement shall be governed by and construed under the laws of the State of Arizona, and shall be deemed made and entered into in Yavapai County.
32. CAPTIONS. The captions used herein are for convenience only and are not a part of this Agreement. They do not in any way limit or amplify the terms and provisions hereof.
33. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous Agreements, representations, negotiations, and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.
34. AMENDMENTS TO AGREEMENT. This Agreement may only be amended by a writing duly executed by an authorized representative of the parties hereto.
35. CONFLICT-OF-INTEREST. This Agreement may be canceled without penalty pursuant to ARS §38-511 in the event of a conflict-of-interest as described therein by any person significantly involved in negotiating this Agreement on behalf of the Town.

IN WITNESS WHEREOF, the parties hereto have caused this Chamber of Commerce Appropriation Agreement to be executed by their authorized representatives the day and year first-above written.

TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona ("TOWN")

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

PRESCOTT VALLEY CHAMBER OF
COMMERCE, an Arizona corporation
("CHAMBER")

_____, Chairman of the Board
(Print Name) Board of Directors

ATTEST:

_____, Secretary
(Print Name)

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me, a notary public, this ____ day of _____, 2014, by Harvey C. Skoog, Mayor of the Town of Prescott Valley, a municipal corporation of Arizona, on behalf of said municipal corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me, a notary public, this ____ day of _____, 2014, by _____, Chairman of the Board of Directors of the Prescott Valley Chamber of Commerce, an Arizona corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

EXHIBIT "A"

FY 2014-2015 Payment Detail

	<u>FY 14-15</u>
Amphitheater Services	\$ 5,000.00
Business Retention and Expansion	\$ 5,000.00
Website Maintenance	\$ 2,000.00
Community Promotion	\$ 20,000.00
Tourism Committee	\$ 10,000.00
PV Days	\$ 5,000.00
Festival of Lights	\$ 1,000.00
Team Up to Clean Up	<u>\$ 1,000.00</u>
Valley of Lights	<u>\$ 5,000.00</u>
SUBTOTAL	\$54,000.00
Administrative/Value-Added Services	\$59,275.00
TOTAL	\$113,275.00