

**RESOLUTION NO. (R)12-37**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A FINANCIAL PARTICIPATION AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE METROPOLITAN TUCSON CONVENTION AND VISITORS BUREAU**

**WHEREAS**, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS**, pursuant to A.R.S. § 9-500.11, the Town may appropriate public monies for and in connection with economic development activities as long as there is adequate consideration; and

**WHEREAS**, the Town desires to continue to promote a business environment in Oro Valley that enhances economic vitality and improves the quality of life for its residents; and

**WHEREAS**, the Town of Oro Valley desires to enter into a Financial Participation Agreement with the Metropolitan Tucson Convention and Visitors Bureau (MTCVB); and

**WHEREAS**, it is in the best interest of the Town to enter into the Financial Participation Agreement with the MTCVB, attached hereto as Exhibit "A" and incorporated herein by this reference, to set forth the terms and conditions of the Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Town of Oro Valley, Arizona, that:

**SECTION 1.** The Financial Participation Agreement between the Town of Oro Valley and the Metropolitan Tucson Convention and Visitors Bureau, attached hereto as Exhibit "A", is hereby authorized and approved.

**SECTION 2.** The Mayor and other administrative officials are hereby authorized to take such steps as necessary to execute and implement the terms of the Agreement.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona this 20th day of June, 2012.

**TOWN OF ORO VALLEY**

  
Dr. Satish I. Hiremath, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Julie K. Bower, Town Clerk

Date: 6/21/12

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Tobin Rosen, Town Attorney

Date: 6/20/12

# EXHIBIT “A”

**Town of Oro Valley**  
**FINANCIAL PARTICIPATION AGREEMENT**

**THIS AGREEMENT** is made and entered into this 1<sup>st</sup> day of July, 2012, by and between the Town of Oro Valley, a municipal corporation, hereinafter called the "Town" and the **Metropolitan Tucson Convention and Visitors Bureau**, a non-profit corporation, hereinafter called the "Agency".

**WITNESSETH**

**WHEREAS**, it has been determined that the activities of Agency are in the public interest, and are such as to improve and promote the public welfare of the Town; and

**WHEREAS**, the Mayor and Council have determined that to financially participate in the promotion of the activities of Agency is a public purpose in that the activities confer direct benefit of a general character to a significant part of the public.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto do mutually agree as follows:

**Section 1. Definitions**

- A. Tour Operator – a person who arranges and/or organizes groups of people to travel together to a destination and who also organizes tour packages and advertises them for people to buy.
- B. Travel Agent Impressions – the number of travel agents who would likely read a tour brochure which a tour operator produced to promote tours that he or she organized.

**Section 2. Statement of Purpose**

Agency will initiate, implement and administer a comprehensive sales promotion and advertising program to attract an increasing number of convention delegates and vacationing tourists to the Town, thereby providing revenues to the community through transient rental and sales taxes, and contributing to the overall economic growth and continued viability of the tourism and hospitality industry.

**Section 3. Services to be Performed by Agency**

**Agency** performance measures outlined below are for FY 2012-13 (July 1, 2012 – June 30, 2013). The performance measures for FY 2013-14 (July 1, 2013 – June 30, 2014) will be determined at the end of FY 2012-13. The performance measures for FY 2014-15 (July 1, 2014 – June 30, 2015) will be determined at the end of FY 2013-2014.

# Town of Oro Valley

## FINANCIAL PARTICIPATION AGREEMENT

### Convention Sales

1. Generate 275 convention sales leads for Oro Valley properties.
2. Conduct 35 customer interaction/site inspections for Oro Valley properties.
3. Confirm 12 convention bookings for future dates for Oro Valley properties.
4. Confirm convention bookings for future dates resulting in 6,000 room nights for Oro Valley properties.

### Convention Services

1. Service a minimum of 25 Oro Valley meetings and conventions.

### Travel Industry Sales

1. Generate 35 domestic and international tour program leads and services for Oro Valley properties/venues.
2. Promote Oro Valley as one of the world's top leisure destinations to 500 targeted tour operator clients.
3. Generate a minimum of 600,000 tour operators and travel agent impressions via destination product offering in domestic and international tour operator catalogues.

### Communications

1. Feature Oro Valley within the first 10 pages of the Official MTCVB Visit Guide
2. Reach a minimum of 750,000 readers/viewers through editorial placement.
3. Generate publicity with an equivalent advertising value of at least \$20,000.00.

### Marketing

1. Feature Oro Valley's Aquatic Facility in the online edition of the Sports Facility Guide
2. Generate no less than a total of 75,000 inquiries from high demographic customers in primary markets i.e. (Chicago, Los Angeles, New York) secondary markets (including Denver, San Diego, San Francisco) and Canada.
3. Generate a minimum of 1,250,000 unique visitors to the MTCVB website ([www.visitTucson.org](http://www.visitTucson.org)).
4. Generate 10,000 unique visitors to the Town of Oro Valley's and Oro Valley properties website ([www.orovalleyaz.gov](http://www.orovalleyaz.gov)) from the MTCVB website ([www.visitTucson.org](http://www.visitTucson.org)).
5. Town officials may attend trade shows with MTCVB staff at the expense of the Town.

### General Support

1. Consult with Town staff and officials on tourism sales and marketing initiatives, including, but not limited to, promoting Town venues to special event operators, Mexico marketing, leisure marketing and group sales initiatives.
2. One Town official will serve on the MTCVB Board of Directors.

# Town of Oro Valley

## FINANCIAL PARTICIPATION AGREEMENT

### **Section 4. Services to be Provided by the Town**

All funding is subject to the Town's budget appropriations. For this Agreement, up to Seventy Four Thousand Nine Hundred Seventy Dollars (\$74,970) shall be allocated to Agency.

### **Section 5. Responsibility for Open Records**

Agency agrees to open to the public all records relating to any funds directly received from the Town that Agency distributes to any organization and/or individual.

### **Section 6. Evaluation Criteria and Reporting**

- A. Agency agrees to submit to the Town, through the Economic Development Division, quarterly reports addressing the progress of the Agency in achieving its performance measures listed in Section 2. Reports shall be submitted to the Economic Development Manager within thirty (30) working days of the end of the calendar quarter.
- B. Agency agrees to review and present such quarterly reports to the Town Council in open meetings on an "as requested" basis.

### **Section 7. Accountability**

Agency shall maintain a true and accurate accounting system which meets generally accepted accounting principles, and which is capable of properly accounting for all expenditures and receipts of Agency on a timely basis. In addition, Agency shall maintain evidence of its compliance with the nondiscrimination provisions of this Agreement.

Agency shall provide the Finance Department of the Town, 15 days after MTCVB Board approval, a copy of the financial audit of Agency's operations by an independent certified public accountant, along with any management letter and, if applicable, Agency's plan for corrective action.

At any time during or after the period of this Agreement, the Town Finance Department and/or a Town agent may audit Agency's overall financial operation or compliance with the nondiscrimination clause of this Agreement for the Agreement period. Agency shall provide any financial reports, nondiscrimination policies and procedures or other documentation necessary to accomplish such audits.

### **Section 8. Matching Grants**

Agency agrees to obtain Mayor and Council approval prior to applying for any matching grants involving the commitment of Town funds.

# Town of Oro Valley

## FINANCIAL PARTICIPATION AGREEMENT

### **Section 9. Nondiscrimination**

Agency, in its employment policies and practices, in its public accommodations and in its provision of services shall obey all relevant and applicable, federal, state, and local laws, regulations and standards relating to discriminations, biases, and/or limitations, including, but not limited to, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Arizona Civil Rights Act, the Arizonans with Disabilities Act, the Human Relations provisions of the Oro Valley Code, and the Mayor and Council policy adopted on September 25, 2000, prohibiting the direct or indirect grant of discretionary Town funds to organizations that have a policy of exclusionary discrimination on the basis of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status. See Administrative Guidance Re: Non-Discrimination Policy for Programs Funded by the Town of Oro Valley, attached and incorporated herein by this reference.

### **Section 10. Sub-recipient Funding Agreements**

Agency agrees to include in all of its sub-recipient funding agreements the nondiscrimination provisions contained in Section 8 herein.

### **Section 11. Term of Agreement**

This Agreement between parties as described above shall be effective from July 1, 2012 through June 30, 2015.

- A. The Mayor and Council of the Town determine the services of Agency are in the public interest and allocate funds therefore; and
- B. The parties mutually agree to a scope of services to be provided by Agency in any subsequent fiscal year.

At the end of the third fiscal year referred to above, the provisions of this agreement will be subject to review and renegotiations by the Town and the Bureau.

### **Section 12. Payment Withholding, Reduction, or Termination**

The Town may withhold whole or part of the scheduled payment, reduce, or terminate funding allocations to Agency if:

- A. Services are not rendered.
- B. Agency fails to supply information or reports as required.
- C. Agency is not in compliance with agreed upon disbursement documentation and/or other project performance.
- D. Agency fails to make required payments to subcontractors.
- E. The Town has reasonable cause to believe Agency is not in compliance with the nondiscrimination clause of this Agreement.

# Town of Oro Valley

## FINANCIAL PARTICIPATION AGREEMENT

F. The Mayor and Council fail to appropriate all or part of the funds for this Agreement.

Such payment reductions or payment termination may result in Agency receiving a lesser total Town allocation under this Agreement than the maximum funding allocated. If reasons for withholding payments other than non-appropriation of funds have been corrected to the satisfaction of the Town, any amounts due shall be processed.

The Town will be reimbursed for any funds expended for services not rendered. In addition, Agency shall return to the Town any Town funds provided pursuant to this Agreement that have not been expended by June 30, 2015.

### **Section 13. Termination of Agreement**

This Agreement may be terminated at any time by mutual written consent, or by either party giving thirty (30) days written notice to the other party or at such time, as in the opinion of the Town, Agency's performance hereunder is deemed unsatisfactory.

### **Section 14. Method of Payment**

- A. The parties have agreed that Agency will receive from the Town an amount not to exceed \$74,970 for FY2012-13. The Agency will receive an amount not to exceed \$120,000 for FY2013-14 and an amount not to exceed \$175,000 for FY2014-15. Disbursement of funds by the Town is subject to the annual appropriation by the Town Council and the limitations of the state budget law. Payments shall be made on a quarterly basis commencing July 1, 2012. Payments are to be made within forty (40) days after the close of each preceding quarter.
- B. It shall be the responsibility of the Agency to obtain funding from sources other than the Town. Financial participation agreements with other governments and government agencies, grants, donations, memberships and any other sources of funding as may become available from time to time shall be included as part of the annual budget submission.

### **Section 15. Indemnification**

Agency agrees to indemnify, defend and save harmless the Town, its Mayor and Council, appointed boards, committees, and commissions, officers, employees, and insurance carriers, individually and collectively, from all losses, claims, suits, demands, expenses, subrogations, attorney's fees, or actions of any kind and nature resulting from personal injury to any person, including employees of Agency or of any subcontractor employed by Agency (including bodily injury and death); claims based upon discrimination and/or violation of civil rights; or damages to any property, arising or alleged to have arisen out of the work to be performed hereunder, except any such injury or damages arising out of the sole negligence of the Town, its officers, agents, or employees. Workers' Compensation insurance and/or self-insurance carried by the Town do not apply to employees or volunteers acting in any capacity for Agency.

**Town of Oro Valley**  
**FINANCIAL PARTICIPATION AGREEMENT**

**Section 16. Insurance**

Agency agrees to:

- A. Obtain insurance coverage of the types and amounts required in this Section and keep such insurance coverage in force throughout the life of this Agreement. All policies will contain an endorsement providing that written notice be given to the Town at least thirty (30) calendar days prior to termination, cancellation, or reduction in coverage in any policy.
- B. The Comprehensive General Liability Insurance policy will include the Town as an additional insured with respect to liability arising out of the performance of this Agreement.
- C. Agency will provide and maintain minimum insurance limits as follows:

<b>COVERAGE AFFORDED</b>	<b>LIMITS OF LIABILITY</b>
1. Workers' Compensation	Statute
2. Employer's Liability	\$100,000
3. Comprehensive General Liability Insurance -- Including: (1) Products and Completed Operations (2) Blanket Contractual	\$1,000,000 - Bodily Injury and Combined Single Limit \$100,000 Property Damage

- D. Agency shall adequately insure itself against claims based upon unlawful discrimination and violation of civil rights. The cost of this insurance shall be borne by Agency.

**Section 17. Use of the Town Logo**

The Town Logo shall be used for the recognition of the Town's contribution to Agency only.

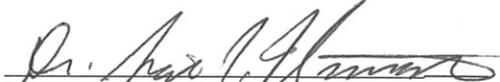
**Section 18. Conflict of Interest**

This Agreement is subject to the conflict of interest provisions of A.R.S. § 38-511, *et seq.*

**Town of Oro Valley**  
**FINANCIAL PARTICIPATION AGREEMENT**

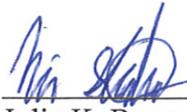
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**TOWN OF ORO VALLEY**, a municipal corporation

  
Dr. Satish I. Hiremath, as Mayor  
and not personally

**ATTEST:**

**APPROVED AS TO FORM:**

  
Julie K. Bower, as Town Clerk  
and not personally

  
Tobin Rosen, as Town Attorney  
and not personally

Date: 7/2/12

Date: 7/2/12

**METROPOLITAN TUCSON CONVENTION AND VISITORS BUREAU**, a non-profit Corporation

  
Brent E. Deraad  
Agency Representative  
and not personally

Title President & CEO

State of Arizona     )  
                                  ) ss.  
County of PIMA     )

On this 23<sup>rd</sup> day of July, 2012, BRENT E. DERAAD, known to me to be the person whose name is subscribed to the within instrument, personally appeared before me and acknowledged that he/she executed the same for the purposes contained.

Given under my hand and seal on July 23, 2012.

  
Notary

My Commission Expires: 1/19/2015

