

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("Agreement") is hereby made by and between the CITY OF SEDONA, a municipal corporation, ("City"), and the Sedona Chamber of Commerce and Tourism Bureau ("SCC&TB").

WITNESSETH

WHEREAS, City and SCC&TB have entered into a Tourism Promotion & Visitor Services Agreement to partner in destination marketing and tourism product development activities; and

WHEREAS, SCC&TB annually develops a Destination Marketing and Development Plan for approval by the Sedona City Council; and

WHEREAS, the Destination Marketing and Development Plan considers initiatives to enhance existing products, identify new areas of development focus that would address future opportunities, identify a range of potential options for product development, and recommend product development programs; and

WHEREAS, SCC&TB works cooperatively and in partnership with City staff in reviewing and preparing a final list of product development recommendations for each fiscal year; and

WHEREAS, SCC&TB has identified an opportunity for the acquisition of a certain parcel of real property within the City of Sedona at 401 Jordan Road that has various potential uses related to product development; and

WHEREAS, SCC&TB and the City desire to jointly identify, through the annual preparation of product development recommendations, the best and most efficient use of the 401 Jordan Road property; and

WHEREAS, the City desires to have the option of acquiring the 401 Jordan Road property by donation from SCC&TB at such time as SCC&TB possesses fee simple title to said property; and

WHEREAS, SCC&TB desires to convey by donation the 401 Jordan Road property in fee simple to the City if SCC&TB, in partnership with the City, determines that it is in the mutual interest of each party to execute said conveyance; and

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties agree as follows:

1. Scope of Agreement

- A. SCC&TB shall be responsible for acquiring the real property located at 401 Jordan Road and, upon acquisition, shall hold said real property for the mutual benefit of SCC&TB and the City.
 - B. Upon notice by the City to SCC&TB of the City's intent to receive conveyance of the real property located at 401 Jordan Road, regardless of whether said real property remains encumbered by the security interest of any mortgagor, SCC&TB shall convey its then current interest in the property to the City, conditioned upon the City's satisfaction of any outstanding indebtedness or security interest owing to any mortgagor or other interested party in the property.
 - C. At such time as SCC&TB realizes ownership of the property free and clear of any mortgage or other security interest encumbering the property, SCC&TB shall notify the City of SCC&TB's intent to transfer ownership in fee simple of the property to the City. The City shall have the option to accept conveyance of the property or to reject ownership in favor of continued ownership and possession of the property by SCC&TB.
 - D. While the property is in the exclusive possession and control of SCC&TB, and until the property is properly conveyed to City pursuant to City's notice as provided in this Agreement, SCC&TB shall have the right and authority, to make any and all use of the property that SCC&TB deems appropriate so long as said use is consistent with the Destination Marketing and Development Plan approved by the Sedona City Council.
 - E. Any and all revenues generated by SCC&TB by virtue of the use of the property shall be used exclusively for the reduction of indebtedness on any mortgage or other lending instrument encumbering the property until such time as said encumbrance is satisfied.
 - F. SCC&TB shall at all times during the term of this Agreement assume sole responsibility for the cost of routine maintenance and upkeep of the property, subject to coordination and scheduling by mutual agreement of the parties.
2. Hold Harmless. Neither the City nor any officer or employee thereof is responsible for any damage or liability occurring by reason of any negligent act or omission committed by the employees of SCC&TB acting within the scope of their employment under or in connection with any work, authority or jurisdiction delegated to SCC&TB under this Agreement. Neither SCC&TB nor any officer or employee thereof is responsible for any damage or liability occurring by reason of any negligent act or omission committed by the employees of the City acting

within the scope of their employment under or in connection with any work, authority or jurisdiction delegated to the City under this Agreement.

3. Term. This Agreement shall remain in full force and effect until such time as the financial obligations created as a result of the financing for the benefit of SCC&TB have been fully and finally satisfied.
4. Governing Laws. This Agreement shall be deemed to be made under, shall be construed in accordance with and shall be governed by the internal, substantive laws of the State of Arizona.
5. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect.
6. Termination. This Agreement may be terminated at any time by City's receipt of a conveyance in fee simple of the property by SCC&TB. If at any time prior to the conveyance of the property in fee simple from SCC&TB to City the property ceases to be used by SCC&TB for the purposes described herein and in the Destination Marketing and Development Plans approved by the Sedona City Council, City shall have the right to cancel this Agreement upon notice to SCC&TB and the failure of SCC&TB to timely cure.
7. Notices. All notices or demand upon any party to this Agreement shall be in writing and all shall be delivered in person or sent by mail addressed as follows:

SCC&TB
Jennifer Wesselhoff
331 Forrest Rd.
Sedona, Arizona 86336

City of Sedona
Karen Osburn
102 Roadrunner Dr.
Sedona, Arizona 86336

8. Entire Agreement. This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either Party or its agents not contained or specifically referred to in this Agreement are valid or binding. All modifications to this Agreement must be in writing, signed, and endorsed by the parties.
9. Attorney's Fees. If either party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party is entitled to reasonable attorney fees and costs pursuant to A.R.S. § 12-341.01.
10. Miscellaneous. The captions and paragraph headings used in this Agreement are for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement. When used herein, the terms "include" or "including" shall mean without limitation by reason of the enumeration. All grammatical usage herein shall be deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person or persons may require. The term "person" shall include an individual, corporation, partnership, trust, estate, or

any other entity. If the last day of any time period stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday in the State of Arizona.

IN WITNESS WHEREOF, the governing body of each Party hereto has approved and executed this Agreement in accordance with governing law.

CITY OF SEDONA

By: _____
Sandra J. Moriarty, Mayor

Date _____, 2017

ATTEST:

Susan L. Irvine, CMC, City Clerk

SEDONA CHAMBER OF COMMERCE AND TOURISM BUREAU

By: _____
Jennifer Wesselhoff, President

Date _____, 2017