

**PROFESSIONAL SERVICE AGREEMENT BETWEEN MESQUITE REGIONAL
BUSINESS, INC., A NEVADA NON-PROFIT CORPORATION, AND THE CITY OF
MESQUITE, A NEVADA MUNICIPAL CORPORATION**

THIS AGREEMENT is made and entered into when both parties have properly signed and executed the agreement, by the City of Mesquite (City) and Mesquite Regional Business, Inc. (MRB)

WITNESSETH

WHEREAS, the City believes it to be in the best long-term interest of the citizens of Mesquite to actively pursue economic development activities; and

WHEREAS, the City is committed to creating economic diversity and to growing and broadening the tax base of the City in order to provide additional choices and above average wage employment opportunities for its citizens; and

WHEREAS, the City Council desires to continue to receive professional economic development services from MRB; and

WHEREAS, MRB, a private, non-profit corporation, desires to provide professional economic development services to the City as an independent contractor; and

WHEREAS, MRB's business purpose is to provide and perform, as a non-profit, professional economic development services in the Virgin Valley, Moapa and Arizona Strip areas, which include but are not limited to: Mesquite, Bunkerville, Moapa, Overton, Logandale, and Littlefield, Beaver Dam, and Scenic, Arizona; and other unincorporated portions of Northeastern Clark County and its surrounding areas; and

WHEREAS, MRB'S board of directors is made up of private citizens and business professionals who hold expertise in varied areas of business and economic development.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, it is understood and agreed by and between the parties as follows:

**SECTION ONE
PURPOSE**

The purpose of this Agreement is to contract with Mesquite Regional Business for professional economic development services.

SECTION TWO
EFFECTIVE DATE, TERM AND TERMINATION OF THIS AGREEMENT

This agreement shall commence on July 1, 2016 (“Effective Date”), and expire June 30, 2019. Continuation of the Agreement from City fiscal year to fiscal year is contingent upon approval by the City Council. The Agreement can be terminated at any time by majority vote of the City Council and shall require a minimum of six (6) months advanced written notice to MRB. Likewise, the Agreement can be terminated at any time by MRB, and shall require a minimum of six (6) months advance written notice to the City.

SECTION THREE
PROFESSIONAL SERVICE TO BE PROVIDED BY MRB

In consideration of and in keeping with the terms of the Agreement as provided herein, MRB shall provide a full range of economic development services which shall include but not be limited to the Scope of Work as outlined in the attached “Exhibit A”.

Both parties understand that, at the discretion of the City Council, Mayor or City Manager, the City may resume its own economic development services at any time. The City’s decision to conduct its own economic development services is unrelated to this agreement or MRB.

SECTION FOUR
FINANCES AND METHOD OF PAYMENT

In consideration for services rendered pursuant to this Agreement, The City shall pay MRB the following annual amounts over the term of the Agreement.

- July 1, 2016 – December 31, 2016: \$75,000
- January 1, 2017 – June 30, 2017: \$95,000
- July 1, 2017 – June 30, 2018: \$190,000
- July 1, 2018 – June 30, 2019: \$190,000

MRB shall submit monthly invoices to the City. City shall remit payment within thirty (30) days of receipt of the invoice. Actual payments shall be made on a monthly basis.

SECTION FIVE
UPDATING

As part of the monthly billing process, a written update shall be transmitted via email that includes information about the professional services rendered during the previous month.

MRB shall annually appear before the City Council and make a presentation regarding MRB's achievements, efforts and future plans as they relate to the services provided to the City as part of this Agreement. MRB shall not be required to submit or obtain the City's approval of any specific work plan.

SECTION SIX **PROPERTY**

All finished or unfinished documents, data, surveys, studies, drawings, maps and other documents prepared by MRB are property of MRB.

In the event that MRB dissolves and ceases to conduct business, the intellectual property shall be turned over to another organization performing the same functions within ten (10) business days of the conclusion of MRB's winding up period. Every reasonable effort shall be made to protect client confidentiality throughout this transition. Once another organization takes ownership of the intellectual property, MRB shall still be required to maintain previously agreed upon client confidentiality, but MRB shall not be liability for the new organization's efforts to maintain client confidentiality.

SECTION SEVEN **SOVEREIGN IMMUNITY**

The City of Mesquite expressly reserves the right to invoke governmental immunity for any claim arising out of this Agreement pursuant to NRS Chapter 41.

SECTION EIGHT **AMENDMENTS**

This Agreement constitutes the full understanding between the parties, and may only be modified by written amendment executed by all parties hereto. The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement.

SECTION NINE **ARBITRATION**

If a dispute arises out of or relates to this contract, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree to submit to binding Arbitration pursuant to the rules and procedures of the American Arbitration Association. City and MRB shall jointly

request the names of five (5) arbitrators who have experience in the issue to be arbitrated. Nevada law shall be applied to any matter in arbitration. Each side shall choose one name from among the five (5) arbitrators so named, these two (2) shall select a third arbitrator who shall mediate the arbitration.

SECTION TEN
APPLICABLE LAW

This Agreement is executed and intended to be performed in the state of Nevada and laws of Nevada shall govern its interpretation and effect. The parties consent to the exclusive jurisdiction of the Eighth Judicial District Court, State of Nevada, for enforcement of this Agreement.

SECTION ELEVEN
NONDISCRIMINATION AND COMPLIANCE WITH LAWS

MRB shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Agreement, and it shall assure that no person is discriminated against based on the grounds of age, sex, race, religion, national origin or disability in connection with the performance of this Agreement. MRB shall be an equal opportunity provider.

SECTION TWELVE
INDEMNIFICATION

MRB shall release, indemnify and hold harmless the City and their officers, agents, employees, successors and assigns from any cause of action, or claims or demands arising out of MRB's performance under this Agreement.

SECTION THIRTEEN
THIRD PARTIES

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries, property damage, or contract damages, pursuant to the terms or provisions of this Agreement.

SECTION FOURTEEN
IMPLEMENTATION

The Mesquite City Council hereby designates the City Manager or his designee as the primary contact with MRB and hereby grants and delegates authority to carry out this Agreement.

SECTION FIFTEEN
INDEPENDENT CONTRACTOR

MRB shall function as an independent contractor for the purposes of this Agreement. MRB shall assume sole responsibility for any debts or liabilities that may be incurred by MRB. Nothing in this Agreement shall be interpreted as authorizing MRB or its agents or employees to act as an agent or representative of or on behalf of the City or to incur any obligation of any kind on behalf of the City. Furthermore, the relationship between the City and MRB shall not constitute a joint venture, general partnership or similar arrangement.

The City has not and shall have no right, directly or indirectly, to control, direct, or participate in MRB's business operations, strategic goals, or any other business decisions of MRB. The City shall not entangle itself in any way with the core functions of MRB. Nothing in this Agreement shall be construed such that the City has any legal or contractual right to control the activities of MRB. However, MRB shall be accountable to the City as any other reasonable independent contract would be.

MRB shall function as an independent organization. MRB is not an agent of the City, nor an agency thereof. As such, MRB may not commit or bind the City to any action or decision whatsoever.

SECTION SIXTEEN
SEVERABILITY

If any term of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION SEVENTEEN
NOTICE

All notices and subsequent correspondence pertaining to this agreement shall be mailed first class to the following:

CITY: City of Mesquite
10 East Mesquite Boulevard
Mesquite, Nevada, 89027

Attention: City Manager

MRB: Mesquite Regional Business, Inc.
11 West Pioneer Boulevard, Suite A
Mesquite, NV 89027

SECTION EIGHTEEN
WAIVER

Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

SECTION NINETEEN
CONFLICTS OF INTEREST

MRB shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. MRB warrants that it is not now aware of any facts which create a conflict of interest in connection with the services MRB provides to the City. If MRB hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the City. Full written disclosure shall include, without limitation, identification of all persons implicated and complete description of all relevant circumstances.

SECTION TWENTY
DUPLICATE COPIES

This Agreement has been prepared with duplicate originals so that each party may have an original.

SECTION TWENTY-ONE
HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

SECTION TWENTY-TWO
FORCE MAJEURE

Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitations, earthquakes, floods, winds or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

SECTION TWENTY-THREE
SUCCESSORS AND ASSIGNS

City and MRB, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither the City nor MRB will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the prior written consent of the other.

SECTION TWENTY-FOUR
MUTUALLY DRAFTED

The Parties stipulate and agree that all parties have jointly participated in the negotiation and drafting of this Agreement upon advice of their own independent counsel or that they have had the opportunity to do so and this Agreement shall be construed fairly and equally as to all parties as if drafted jointly by them. The Parties hereby irrevocably waive the benefit of any rule of contract construction which disfavors the drafter of any agreement.

SECTION TWENTY-FIVE
ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties. All promises, representations, understandings, warranties, inducements and agreements with respect to the matters described in this Agreement have been expressed herein. This Agreement may not be amended, altered, supplemented, modified or otherwise changed unless in writing, signed by both Parties hereto, which expressly states that it is an amendment, supplement or modification to this Agreement.

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SECTION TWENTY-SIX
SIGNATURES

IN WITNESS THEREOF, the parties to this Agreement, through their duly authorized representatives, have executed this Agreement on the days and dates set out below and certify that they have read, understood and agreed to the terms and conditions of this Agreement

CITY OF MESQUITE

**MESQUITE REGIONAL BUSINESS,
INC.**

By: _____
Allan S. Litman, Mayor

By: _____
Dan Wright, Chair

Dated: _____

Dated: _____

ATTEST:

By: _____
Tracy Beck, City Clerk

Approved as to form:

By: _____
Bob Sweetin, City Attorney

Date: _____

EXHIBIT A

SCOPE OF WORK

During the term of this Agreement, MRB shall provide City with economic development services. MRB's duties include, but are not limited to the following.

1. Develop and maintain marketing and business attraction services in order to make known the benefits of establishing and conducting business in the Mesquite area, and to encourage and attract new business to the Mesquite area.
2. Work with the Las Vegas Global Economic Alliance to implement regional campaigns for economic development.
3. Create and maintain an up-to-date community profile on the Mesquite area which can be used to provide basic information about the area to local businesses, to prospective new businesses, and for use by the public at large.
4. Initiate programs designed to promote the image and identity of the Mesquite area on a local, regional, national, and international level.
5. Serve as the primary local contact for public and private sector entities in matters relating to economic development
6. Perform all duties associated with working existing and prospective companies. Below is a sample of some of those duties.
 - i. Compilation and presentation of current information on land and building availability, population growth, labor availability, wage rates, general economic conditions, etc.
 - ii. Obtaining information and knowledge concerning potential building sites, office space, manufacturing facilities, warehouse availability, prices and rates.
 - iii. Coordinate community tours for prospective businesses by scheduling appointments with related industries, government agencies, utility companies, architects, contractors, attorneys, developers, real estate brokers, educational representatives, or others required by the prospect.
 - iv. Monitor and, when appropriate, expedite specific project and prospect's progression through various City, County and State departments.
7. Initiate other programs and projects that may, from time to time, be necessary and integral parts of an on-going economic development program.
8. Maintain a website which fulfills the goals, objectives and activities of MRB.