

**A G R E E M E N T**  
**ALHAMBRA CHAMBER OF COMMERCE**  
*and*  
**CITY OF ALHAMBRA**  
**FY 2017-2018**  
**(Contract No. C2M17-32)**

**THIS AGREEMENT** is made and entered into effective this 1st day of July, 2017, by and between the CITY OF ALHAMBRA, a municipal corporation, hereinafter referred to as CITY, and the ALHAMBRA CHAMBER OF COMMERCE, a California not-for-profit corporation (IRS Code Section 501C6), hereinafter called CHAMBER.

**W I T N E S S E T H :**

For and in consideration of the premises and of the mutual covenants and agreements herein contained, said parties hereby agree as follows:

1. **RECITALS.** This Agreement is made and entered into with respect to the following facts:

- A. That CITY is desirous of promoting its advantages as a business, industrial and residential center, providing promotional information relative thereto, and of properly following up and giving consideration to inquiries made from time to time relative to the various activities of CITY and its possibilities as such residential, industrial and business area; and,
- B. That CHAMBER, a not-for-profit corporation, located within the City of Alhambra, has special knowledge, experience and facilities for disseminating information and is organized for and equipped to carry on promotional activities on behalf of CITY and to publicize and exploit its advantages; and,
- C. That CITY is desirous of paying a portion of the costs of such activities of CHAMBER which are of benefit to CITY upon the terms and conditions hereinafter set forth.

2. **SERVICES.** CHAMBER shall carry on those certain promotional activities on the CITY's behalf outlined in that certain report of the CITY Manager, dated June 25, 2012, on file in the office of the City Clerk as File No. F2M1-51 and by this reference incorporated herein and made a part hereof as though fully set forth herein, which said promotional activities include, but are not limited to the following:

- a) To develop upon a city-wide basis promotional programs throughout the year which stimulate business and industrial opportunities;

- b) To maintain a central information office and serve both citizens and out-of-town business inquiries for information;
- c) To promote and/or sponsor civic, business and trade meetings to market the advantages and opportunities of Alhambra; such as, the Lunar New Year Parade and Festival, Rose Queen and Court Luncheon, and Alhambra Beautiful Awards, etc.;
- d) To develop and maintain a community database of important demographic and economic information;
- e) To assist and promote the business community's interests including, but not limited to, helping startup businesses and periodically surveying the business community;
- f) To meet with individual businesses at least two times per month and report back to the City periodically on important issues;
- g) To actively participate in the San Gabriel Valley Economic Partnership;
- h) To conduct quarterly educational workshops, seminars or legislative forums;
- i) To work with local schools to put on a program to introduce students to local businesses and career opportunities; and,
- j) To disseminate, print and distribute guides and informational brochures; such as, the History of Alhambra, City Map, Facts Folder, Clubs and Organizations List, Business Directory, Chamber Membership List, and Points of Interest and Community Resources Guide.

3. **FEE.** CITY agrees to pay to CHAMBER the total sum of ONE HUNDRED ELEVEN THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$111,925.00) for fiscal year 2016-2017 on account of CHAMBER's costs for the services specified in Paragraph 2 above. Said sums shall be paid in installments as follows:

2017-2018	July	\$9,327.08	
	August	9,327.08	
	September	9,327.08	
	October	9,327.08	
	November	9,327.08	
	December	9,327.08	
	January	9,327.08	
	February	9,327.08	
	March	9,327.08	
	April	9,327.08	
	May	9,327.08	
	June	<u>9,327.12</u>	<u>\$111,925.00</u>

Except as provided in Paragraph Nos. 2 and 6 of this Agreement, CITY shall have no obligation to pay any portion of any expense incurred on account of the services specified in this agreement and any such additional costs or expenses shall be borne by CHAMBER.

4. **REPORTS.** CHAMBER shall submit (a) to the Director of Finance of CITY each month a bill or statement indicating the amount due and payable under the provisions of the agreement for that month, and (b) to CITY Manager within thirty (30) days after the end of each calendar quarter a statement of its activities in the interest of CITY as specified hereinabove in Paragraph No. 1.

5. **POLITICAL ACTIVITIES PROHIBITED.** CHAMBER further covenants and agrees not to engage in any partisan political activity whatsoever during the term of this agreement whether supported by CITY funds or otherwise.

6. **EXTRA SERVICES.** In the event CITY shall desire any additional services in and about the advertising and promotion of Alhambra, CHAMBER shall, upon request by CITY, furnish an itemized statement of the cost thereof and CITY may modify or alter any such plan or proposal in any particular, or may reject said plan in its entirety, or may direct the submission of a new plan or proposal which may be accepted, altered or rejected. Upon the final approval of any such plan by CITY and the execution thereof by CHAMBER, CITY shall pay the cost thereof upon demand of CHAMBER as herein provided, which cost shall not exceed by more than five percent (5%) the estimated cost of such plan or proposal as herein set forth, unless with the express consent of CITY. All money due under said plan or proposal shall be supported by a statement of CHAMBER showing the amount of liability incurred upon the basis of said claims, and certified by proper officers of CHAMBER, and a Minute Record of the Board of Directors of CHAMBER. CHAMBER shall not be entitled to receive any compensation for its services in carrying out said plan.

7. **TERM.** The term of this Agreement shall be from July 1, 2017 to and including June 30, 2018.

8. **AUDITS.** The books of account of CHAMBER shall be subject to audit upon the order of the Alhambra CITY Council.

9. **PUBLIC PURPOSE.** The expenditures herein contemplated are intended to be and shall be only for such uses and purposes as may come within the definition of a public purpose; that is, for such purposes as may directly or indirectly benefit the entire community rather than individuals or corporations.

10. **POLE CARDS.** CHAMBER is authorized to install Pole Cards on streetlight standards in the Central Business District and on Valley Boulevard and/or

overhead banners across the street in said areas to advertise business promotional events from time to time, provided the City Manager of CITY is notified in writing not less than five (5) days in advance of any such event, specifying the date and general location, and provided said City Manager approves the same in advance of any such event. Said City Manager is authorized to grant such permission subject to such reasonable conditions as he may impose.

11. **TERMINATION OF AGREEMENT.** The CITY reserves the right to terminate this agreement by giving the CHAMBER sixty (60) days' advance written notice of such termination prior to said July 1 of each fiscal year this Agreement remains in force and effect.

In addition, CITY may terminate this agreement at the end of the then current fiscal year in the event that funds are not allotted within the CITY's fiscal budget to continue the services provided by CHAMBER under this Agreement. In the event of such termination, CITY or AGENCY shall give the CHAMBER sixty (60) days' advance written notice that the foregoing condition exists and shall not be required to provide funding under this agreement beyond the end of the then current fiscal year.

12. **INDEPENDENT CONTRACTOR.** CHAMBER shall act as an independent contractor in the performance of the services provided for in this Agreement and shall furnish such services in CHAMBER'S own manner and method and in no respect shall CHAMBER be considered an agent or employee of the CITY.

13. **NONASSIGNMENT.** This Agreement is not assignable either in whole or in part by CHAMBER without the written consent of CITY.

14. **INDEMNIFICATION.** CHAMBER hereby agrees to and shall hold CITY, its elective and appointive boards, officers, agents and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from CHAMBER's negligent acts, errors or omissions under this Agreement. CHAMBER agrees to, and shall defend CITY and its elective and appointive boards, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid negligent acts, errors or omission; provided

- (a) That CITY does not, and shall not, waive any rights against CHAMBER which it may have by reason of the aforesaid hold-harmless agreement because of the acceptance by CITY or the deposit with CITY by CHAMBER, of any of the insurance policies hereinafter described in this Agreement.
- (b) That the aforesaid hold-harmless agreement by CHAMBER shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of CHAMBER, or any subcontractor of CHAMBER, regardless of whether or

not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

15. **WAIVER.** Waiver by any party hereto of any term, condition, or covenant of this Agreement shall not constitute the waiver of any other term, condition or covenant hereof.

16. **ATTORNEY'S FEES.** If litigation is reasonably required to enforce or interpret the provisions of this Agreement, the prevailing party in such litigation shall be entitled to an award of reasonable attorney's fees, in addition to any other relief to which it may be entitled.

17. **BINDING EFFECT.** This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

18. **PROVISIONS, CUMULATIVE.** The provisions of this Agreement are cumulative and in addition to and not in limitation of any rights or remedies available to CITY and AGENCY.

19. **NO PRESUMPTION RE: DRAFTER.** The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions it would be inappropriate to deem any party to be the drafter of this Agreement; and, therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this Agreement.

20. **ASSISTANCE OF COUNSEL.** Each party to this Agreement warrants to each other party as follows:

- (a) That each party either had the assistance of counsel or had counsel available to it, in the negotiation for, and execution of, this Agreement, and all related documents; and,
- (b) That each party has lawfully authorized the execution of this Agreement.

21. **MODIFICATION.** This Agreement shall not be modified except by written agreement of the parties.

22. **GOVERNING LAW.** This Agreement shall be interpreted and construed according to the laws of the State of California.

23. **EFFECTIVE DATE AND EXECUTION.** This Agreement shall be effective from and after the date it is signed by the representatives of the CITY. This Agreement may be executed in counterparts.

24. **NOTICE.** Whenever it shall be necessary for either party to serve notice on the other regarding this Agreement, such notice may be furnished in writing by either party to the other and shall be served by personal service as required in judicial proceedings or by certified mail, postage prepaid, return receipt requested, addressed to the parties as follows:

CITY: Mr. Mark Yokoyama, City Manager  
City of Alhambra  
111 South First Street  
Alhambra, CA 91801

CHAMBER: Ms. Sharon Gibbs, Executive Director  
Alhambra Chamber of Commerce  
104 South First Street  
Alhambra, CA 91801

25. **FORCE MAJEURE.** Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include, but not be limited to, acts of God, fire, flood, earthquake, or other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or government statutes or regulations superimposed after the fact.

26. **INSURANCE.** CHAMBER shall not commence work under this contract until CHAMBER shall have obtained all insurance required by this Agreement and such insurance shall have been approved by CITY as to form, amount and carrier, nor shall CHAMBER allow any subcontractor of CHAMBER to commence work on any subcontract until all similar insurance required of the subcontractor of CHAMBER shall have been so obtained and approved.

- (a) COMPENSATION INSURANCE - CHAMBER shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of CHAMBER's employees employed at the site of improvement; and, if any work is sublet, CHAMBER shall require the subcontractor of CHAMBER similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CHAMBER. If any class of employees engaged in work under this contract at the site of the PROJECT is not protected under any Workers' Compensation law, CHAMBER shall provide and shall cause each subcontractor of CHAMBER to provide adequate insurance for the protection of employees not

otherwise protected. CHAMBER shall indemnify CITY for any damage resulting to it from failure of either CHAMBER or any subcontractor of CHAMBER to take out or maintain such insurance.

- (b) COMPREHENSIVE GENERAL LIABILITY, PROFESSIONAL LIABILITY, COMPREHENSIVE AUTOMOBILE LIABILITY AND CONTRACTUAL GENERAL LIABILITY INSURANCE. CHAMBER shall take out and maintain during the life of this contract such comprehensive general liability, products/completed operations hazard, comprehensive automobile liability and contractual general liability insurance as shall protect CITY, AGENCY, its elective and appointive boards, officers, agents and employees, CHAMBER, and any subcontractor of CHAMBER performing work covered by this contract, from claims for damage for personal injury, including death, as well as from claims for property damage which may arise from CHAMBER's or any subcontractor of CHAMBER's operations under this contract, whether such operations be by CHAMBER or by any subcontractor of CHAMBER, or by anyone directly or indirectly employed by either CHAMBER or any subcontractor of CHAMBER, and the amounts of such insurance shall be as follows:

- (1) Public Liability Insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000);
- (2) Professional Liability Insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000);
- (3) Comprehensive Automobile Liability Insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000);
- (4) Contractual General Liability Insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000).

A combined single limit policy with aggregate limits in an amount of not less than TEN MILLION DOLLARS (\$10,000,000) shall be considered equivalent to the said required minimum limits set forth hereinabove.

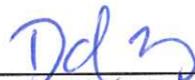
- c) PROOF OF INSURANCE. The CITY of Alhambra shall be named as "additional insureds" on all policies required hereunder, and CHAMBER shall furnish the CITY Clerk, concurrently with the execution hereof, with satisfactory proof of carriage of the insurance required, and adequate legal assurance that each carrier will give CITY at least thirty (30) days' prior notice of the cancellation of any policy during the effective period of the contract.

27. As used in this Paragraph No. 27, PROJECT is hereby defined to, and shall, mean those certain services provided by CHAMBER to CITY under Paragraph Nos. 2 and 6 of this Agreement.

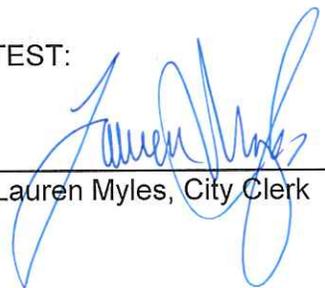
28. **CONTRACT NO. C2M16-33 TERMINATED.** This Agreement supersedes and replaces that certain Agreement dated effective July 1, 2017, by and between the City of Alhambra and the Alhambra Chamber of Commerce, which such agreement is no longer in force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on the 12<sup>th</sup> day of June, 2017, by their respective officers duly authorized in that behalf.

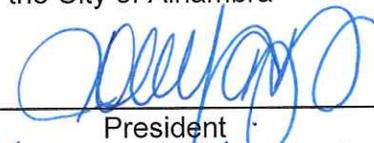
CITY OF ALHAMBRA, a municipal corporation

by  \_\_\_\_\_  
DAVID MEJIA, Mayor  
CITY

ATTEST:

  
\_\_\_\_\_  
Lauren Myles, City Clerk

ALHAMBRA CHAMBER OF COMMERCE,  
a California not-for-profit corporation  
located in the City of Alhambra

by  \_\_\_\_\_  
President  
by  \_\_\_\_\_  
Executive Director  
CHAMBER

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOSEPH M. MONTES, City Attorney