

BUSINESS CREATION, RETENTION AND ATTRACTION SERVICES AGREEMENT

THIS AGREEMENT is entered into effective October 1, 2023, (the “Effective Date” even though it may be executed on subsequent dates) between City of Ocala, a Florida municipal corporation (“City”), and Ocala/Marion County Chamber of Commerce, Inc., a Florida not for profit corporation doing business as the Ocala Metro Chamber & Economic Partnership (“CEP”). In consideration of the mutual promises set forth herein, and other good and valuable consideration, the parties hereto agree as follows:

1. Background and Purpose.

- 1.1. City is a Florida municipality and seeks to promote and enhance its economic growth.
- 1.2. City owns and operates the Ocala International Airport (“Airport”) and desires to develop a portion of the Airport as an industrial park (“Airport Park”) for aeronautical and non-aeronautical uses.
- 1.3. City desires to retain CEP to promote City and the Airport Park as viable business destinations for prospective companies to expand or relocate their operations, and thereby create quality jobs for the community.
- 1.4. CEP is willing to perform such services pursuant to the terms and conditions hereof.

2. CEP Responsibilities.

- 2.1. The CEP will host at least 25 prospect visits during the year. These will be at least 18 different companies that will be considering locating a facility in the Ocala Metro.
- 2.2. The CEP will complete at least five (5) Targeted Marketing campaigns. These campaigns will be conducted of businesses considering relocation or expansion in either key industries or in key metros and will be aimed at setting appointments with top level executives. This may also include working appointments at trade shows and meetings.
- 2.3. The CEP will visit with the premier site selection consultants in key markets such as Dallas, New York, Chicago and Atlanta. This will occasionally be done in conjunction with the FloridaCommerce team and key site selector conferences such as IAMC (Industrial Asset Management Council), Consultants Forum, and Site Selectors Guild.
- 2.4. The CEP will continue to build and maintain the Sites & Buildings database through GIS WebTech or a comparable program.

- 2.5. The CEP will complete and document in the Salesforce CRM at least 150 business retention calls.
- 2.6. The CEP will engage 300 students and 35 businesses in NEXTworking career development events.
- 2.7. The CEP will continue the operation and promotion of the Power Plant as part of a complete Business Creation initiative.
- 2.8. The CEP will assist at least 150 entrepreneurs through the IMPACT initiative.
- 2.9. The CEP will offer at least two FastTrac® cohorts in the City targeting residents of West Ocala for inclusion in the City's Diverse Small Business Enterprise initiative.
- 2.10. The CEP will serve as the official local representative to FloridaCommerce.
- 2.11. The CEP will provide City with a monthly written report and performance matrix update as to the status of each of these responsibilities.
- 2.12. The CEP will provide City with a quarterly financial report of how City investment is being used with the reports being submitted on or by January 15, 2024; April 15, 2024; July 15, 2024; and September 30, 2024.
- 2.13. All of the foregoing shall be accomplished by CEP at its expense unless otherwise noted.

3. **City Responsibilities.**

- 3.1. City will promptly review, approve or provide suggested revisions concerning drafts of documents or other materials or information prepared by CEP hereunder to ensure deadlines can be met.
- 3.2. The City will have representatives available to meet with prospective company representatives.
- 3.3. The City will provide staff support to meet with prospective company representatives.
- 3.4. The City will keep open communication lines as to stated expectations and projects.
- 3.5. The City will review CEPs services to provide feedback to ensure the City's needs are met.
- 3.6. All of the foregoing shall be accomplished by City at its expense unless otherwise noted.

4. **Payment for Services.**
 - 4.1. As total compensation for CEP's performance hereunder, City will pay CEP a total of \$190,000 in four quarterly installments of \$47,500.00 with the first quarterly installment due on November 1, 2023, and the remaining quarterly installments due on February 1, 2024, May 1, 2024, and August 1, 2024.
5. **Termination.**
 - 5.1. If either party defaults under this Agreement and fails to cure such default within ten (10) days after written notice from the non-defaulting party, the non-defaulting party may terminate this Agreement by providing written notice thereof to the defaulting party. Provided, however, in the event that the non-defaulting party has already given notice to the defaulting party of a prior default of the same provision of this Agreement, the non-defaulting party may immediately terminate this Agreement upon a subsequent default under the same provision without providing notice and an opportunity to cure.
 - 5.2. Such termination is without prejudice to any other remedies available to the non-defaulting party.
6. **Duration of Contract.** This Agreement shall be effective upon the Effective Date and shall terminate (except to the extent any obligation is expressly stated as surviving termination) on September 30, 2024.
7. **Ownership of Brand and Materials.** All such brands, materials and other information referred to in paragraph 2 will belong to and be the property of the CEP. However, the CEP will provide the brand in requested size and format needed at the City's request for City marketing materials throughout the duration of this agreement.
8. **Assignment.** This Agreement shall not be assigned by either party without the prior written consent of the other party.
9. **Rights of Third Parties.** Unless expressly stated herein to the contrary, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
10. **Exclusive Venue.** The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether

sounding in contract, tort, strict liability, or otherwise, shall be in Marion County, Florida.

11. **JURY WAIVER.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

12. **Notices.**

12.1. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing (including faxed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, faxed, or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed to the following or to such other addresses as any party may designate by notice complying with the terms of this paragraph:

- a. If to City: City Manager, 110 SE Watula Avenue, Ocala, FL 34471; fax 352-629-8391
 - 1). With copy to: Director, Economic Development, 201 SE 3rd Street, 2nd Floor, Ocala, FL 34471; fax: 352-629-8242.
- b. If to CEP: President, 310 SE 3rd Street, Ocala, FL 34471; fax: 352-629-7651

12.2. Each such notice shall be deemed delivered:

12.2.1. On the date delivered if by personal delivery;

12.2.2. On the date of facsimile transmission if by facsimile; and

12.2.3. If the notice is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; (b) the date upon which delivery is refused; (c) the date upon which notice is designated by the postal authorities as not having been delivered; or (d) the third business day after mailing.

12.2.4. Notwithstanding the foregoing, service by personal delivery delivered, or by facsimile sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday.

12.3. If a notice is delivered by multiple means, the notice shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.

13. **Governing Laws.** This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to principles of conflicts of laws.
14. **Attorneys' Fees.** If any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
15. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
16. **Signatures by Facsimile or Digital Execution.** It is the intent and agreement of the parties hereto that the signatures, initials and handwritten or typewritten modifications to this Agreement shall be as legally binding upon the parties if in the form of a facsimile or digital execution (such as scanning and emailing) as if the original signatures, initials, and modifications were present on the documents in the hands of each party. Neither party shall assert the statute of frauds nor unenforceability or invalidity of this Agreement, or any addendum or modification of this Agreement, because of the use of facsimile or digital copies and not originals in any litigation; both parties simply waive and relinquish any such defense.
17. **Remedies.** No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing

at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

18. **Successors and Assigns.** All covenants, Agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
19. **Severability Clause.** Provisions contained in this Agreement which are contrary to, prohibited by or invalid under applicable laws or regulations shall be deemed omitted from this document and shall not invalidate the remaining provisions thereof.
20. **Waiver.** A failure to assert any rights or remedies available to a party under the terms of this Agreement shall not be deemed a waiver of such rights or remedies, and a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.
21. **Construction of Agreement.** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than another.
22. **Language.** Whenever used in this Agreement, the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall include all genders where the context permits.
23. **Paragraph Headings.** The paragraph headings used in this Agreement are for convenience only, and shall not be used in interpreting or construing any provision of this Agreement.
24. **Further Action.** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.
25. **Time.** Time is of the essence of all of the provisions and terms of this Agreement.
26. **Entire Understanding.** This Agreement represents the entire understanding and Agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties.
27. **Amendments.** The provisions of this Agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this Agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.

THEREFORE, the parties have executed this Agreement on the dates set forth below.

ATTEST:

City of Ocala, a Florida municipal corporation

DocuSigned by:
Angel B. Jacobs

Angel B. Jacobs
City Clerk

DocuSigned by:
James P. Hilty, Sr.

James P. Hilty Sr.
President, Ocala City Council

Date: 10/30/2023

Approved as to form and legality.

DocuSigned by:
William E. Sexton

William E. Sexton
City Attorney

Ocala/Marion County Chamber of Commerce, Inc., a Florida not for profit corporation

By: *Kevin T. Sheilley*

Kevin T. Sheilley as President

Date: _____

Certificate Of Completion

Envelope Id: 9929392F82D24479A9F890B1FDDBE8608	Status: Completed
Subject: FOR SIGNATURE - 2023-24 Business Creation, Retention and Attraction Agreement - CEP (GRM/200892)	
Source Envelope:	
Document Pages: 7	Signatures: 3
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Patricia Lewis
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	110 SE Watula Avenue
	City Hall, Third Floor
	Ocala, FL 34471
	plewis@ocalafl.org
	IP Address: 216.255.240.104

Record Tracking

Status: Original	Holder: Patricia Lewis	Location: DocuSign
10/25/2023 12:26:54 PM	plewis@ocalafl.org	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: City of Ocala - Procurement & Contracting	Location: DocuSign

Signer Events

William Sexton
 wsexton@ocalafl.org
 City Attorney
 City of Ocala
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

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 Signature Adoption: Pre-selected Style
 Using IP Address: 216.255.240.104

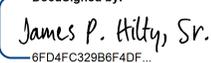
Timestamp

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 Signed: 10/30/2023 11:59:19 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

James P. Hilty, Sr.
 jhilty@ocalafl.org
 President
 Security Level: Email, Account Authentication (None)

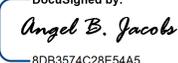
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 Using IP Address: 67.231.58.39
 Signed using mobile

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Electronic Record and Signature Disclosure:

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 ID: 14e56788-1409-4fcd-8b7c-ddcc68b32a87

Angel B. Jacobs
 ajacobs@ocalafl.org
 Security Level: Email, Account Authentication (None)

DocuSigned by:

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 Signed: 10/30/2023 4:39:27 PM

Electronic Record and Signature Disclosure:

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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	10/25/2023 12:30:31 PM
Certified Delivered	Security Checked	10/30/2023 4:39:06 PM
Signing Complete	Security Checked	10/30/2023 4:39:27 PM
Completed	Security Checked	10/30/2023 4:39:27 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Ocala - Procurement & Contracting (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Ocala - Procurement & Contracting:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: contracts@ocalafl.org

To advise City of Ocala - Procurement & Contracting of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at contracts@ocalafl.org and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from City of Ocala - Procurement & Contracting

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to contracts@ocalafl.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Ocala - Procurement & Contracting

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to contracts@ocalafl.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Ocala - Procurement & Contracting as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Ocala - Procurement & Contracting during the course of your relationship with City of Ocala - Procurement & Contracting.