

BUSINESS CREATION, RETENTION AND ATTRACTION SERVICES AGREEMENT

THIS AGREEMENT is entered into effective October 1, ~~2023~~2024, (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.

~~1.1.1.2.~~ City desires to promote the continual redevelopment and revitalization of Downtown and Midtown Ocala.

~~1.2.1.3.~~ 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.

~~1.3.1.4.~~ 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.

1.5. The City and CEP has determined that the services and payments set forth herein are in the public interest because they will help promote a prosperous economy in the City of Ocala by, without limitation, spurring economic development within city limits.

~~1.4.1.6.~~ 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.

2.1.1. At least three (3) of the prospect visits will be for companies considering expanding or locating their operations at the Airport Park, Airport proper, and/or adjoining properties.

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.

2.3.2.4. The CEP will continue to convene meetings of the Financial Review Committee (FRC) to independently review financial information provided in response to solicitations aimed at redeveloping catalytic sites and other locations identified by the City.

2.4.2.5. The CEP will continue to build and maintain the Sites & Buildings database through GIS WebTech or a comparable program. The CEP will complete and document in the Salesforce CRM at least 150 business retention calls.

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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. The CEP will maintain a minimum occupancy rate of 65% during the year. These businesses should be registered with the City, have their primary office located at the Power Plant, and have a lease agreement with the CEP.

2.7.1. The CEP aims to have three (3) graduates by the end of the contract.

2.8. The CEP will assist at least 150 entrepreneurs through the IMPACT initiative.

2.9. The CEP will offer at least two (2) 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 report, which is to include a written ~~report~~ and performance ~~matrix~~ update as to the status of each of these responsibilities. Monthly reports shall be expanded to include certain performance measures, which are attached hereto as Exhibit A.

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~~2025; April 15, ~~2024~~2025; July 15, ~~2024~~2025; and September 30,

~~2024-2025.~~ All of the foregoing shall be accomplished by CEP at its expense unless otherwise noted.

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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. The City and CEP will meet at least once each month to provide updates on activities related to business creation, retention, and attraction.

3.4.3.5. City shall cause for the City Payments to be made after review of invoice and any accompanying documentation.

3.5.3.6. The City will review CEPs services to provide feedback to ensure the City's needs are met.

3.6.3.7. 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 ("City Payments") of \$47,500.00 with the first quarterly installment due on November ~~1, 2023~~, 2024, and the remaining quarterly installments due on February ~~1, 2024~~, 2025, May 1, ~~2024~~2025, and August 1, ~~2024~~.2025.

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~~-2025.

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.

~~1~~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.

~~2~~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.

10.12. Notices.

10.1.12.1. 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

a. 34471; fax 352-629-8391

1). ~~1).~~—With copy to: Planning Director, Economic Development, 201 SE 3rd Street, 2nd Floor, Ocala, FL 34471; fax: ~~352629~~352-629-8242.

b. If to CEP: President, 310 SE 3rd Street, Ocala, FL 34471; fax: 352-629-7651

10.2.12.2. Each such notice shall be deemed delivered:

10.2.1.12.2.1. On the date delivered if by personal delivery;

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

10.2.3.12.2.3. 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.

10.2.4.12.2.4. 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.

10.3.12.3. 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.

~~11.13.~~ **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.

~~12.14.~~ **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.

~~13.15.~~ **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.

~~14.16.~~ **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.

~~15.~~ **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

~~17.~~ 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.

~~16.18.~~ **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.

~~17.19.~~ **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.

~~18-20.~~ **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.

~~19-21.~~ **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.

~~20-22.~~ **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.

~~21-23.~~ **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.

~~22-24.~~ **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.

~~23-25.~~ **Time.** Time is of the essence of all of the provisions and terms of this Agreement.

~~24-26.~~ **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.

~~25-27.~~ **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

James P. Hilty Sr.

Angel B. Jacobs
City Clerk

Barry Mansfield
President, Ocala City Council

Date: _____

Approved as to form and legality.

William E. Sexton
City Attorney

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

By: _____
Kevin T. Sheilley as President

Date: _____

Commerece, Inc.,

Exhibit A

(SEE ATTACHED DOCUMENT)a
Florida not for profit corporation

By: _____
Kevin T. Sheilley as President

Date: _____