

AGREEMENT FOR SERVICES
BETWEEN
CITY OF HAINES CITY, FLORIDA
AND
HAINES CITY ECONOMIC DEVELOPMENT COUNCIL, INC.

THIS AGREEMENT FOR SERVICES ("Agreement"), is entered into and made effective on October 17, 2019, by and between the CITY OF HAINES CITY, FLORIDA, a Florida municipal corporation, hereinafter referred to as ("City"), and the HAINES CITY ECONOMIC DEVELOPMENT COUNCIL, INC., a Florida not-for-profit corporation, hereinafter referred to as ("Council").

WITNESSETH

WHEREAS, the City and Council have previously entered into a Grant Agreement dated November 14, 2014 which expires November 19, 2019.

WHEREAS, the parties have engaged in recent discussions and negotiations to renew the Agreement for Services.

WHEREAS, the City acknowledges that the measures for the services and grants of municipal funds to a non-profit corporation requires the City's finding that such funds will be expended to fulfill a public purpose and requires periodic auditing and reporting to ensure that such funds will be used only for a public purpose.

WHEREAS, the parties expressly acknowledge that economic development is not exclusively a governmental function and the parties expressly seek to establish a contractual relationship in which the Council will provide economic development services that will provide an overall benefit to prospective and existing businesses that locate within the City and the Central Florida area, but the parties expressly acknowledge that the City has not delegated authority to the Council and the Council will not have the authority to act on behalf of City to accomplish the City's economic development goals.

WHEREAS, the parties expressly acknowledge that (i) the City, through the City Commission, City Manager, Community Development Services Department, Utility Services Department, City Attorney, and other City staff members, formulate and pursue economic development policies and goals on behalf of the City, (ii) that the City's economic development policies and goals are established through a decision-making process at open public meetings during which citizens have the ability to participate in the process by providing public comments, and (iii) that the City is obligated to comply with the requirements of the Sunshine Law and Public Records Act.

WHEREAS, the parties expressly acknowledge and agree that the City shall retain dominion and control over the City's economic development policies, goals, and the decision-making process for establishing such policies and goals.

WHEREAS, the Council is a private, not-for-profit corporation organized under the laws of the State of Florida, and is open to individuals or organizations with an interest in economic development of the state and is made up primarily of companies, individuals, post-secondary education institutions, and workforce development boards.

WHEREAS, the Council is managed by a board of directors made up of public and private sector members.

WHEREAS, the City has determined that the development, marketing, consulting and coordinating of economic opportunities that lead to jobs and ad valorem growth constitutes public purposes, to wit:

- a) Business recruitment and retention of existing private sector business that create jobs, invest in the community, and contribute to the welfare of citizens of the City and the Central Florida area.
- b) Development and retention of existing businesses (including minority owned businesses).
- c) Promotion of business and industrial parks within the City of Haines City, its utilities service area, and Central Florida area.
- d) Using Council's best effort to promote and foster the best possible pro-business environment concerning the City and the Central Florida area.
- e) Assisting prospective companies in coordination and application for workforce training grants and ancillary funding sources which periodically become available through federal, state, and local government programs.

f) Advising prospective companies about economic development incentive programs which periodically become available through federal, state, and local government.

WHEREAS, the City and Council acknowledge that federal, state and local laws and regulations may apply to Council regarding its performance of this Agreement, non-profit status under the internal Revenue Code, corporate records and meeting requirements, lobbying efforts, occupational licenses and business operations

WHEREAS, the Council desires to perform the following activities to encourage, support and promote economic development and growth opportunities in the City of Haines City, Florida:

a) Advise and inform private business concerns located outside of the City, existing businesses and the businesses community of the availability of opportunities within the City of Haines City and within its utilities service area of which they may take advantage and counsel them regarding their suitability to participate in available federal, state, and local economic development programs and grants.

b) Work to develop existing private sector businesses (including minority owned businesses).

c) Advise and inform private business concerns on strategies designed to promote and foster the best possible pro-business environment within the City and the Central Florida area.

WHEREAS, the Council agrees to perform these activities under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises, representations, covenants, and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Council agree as follows:

1. The parties expressly acknowledge and agree that the above Recitals shall be incorporated herein and shall constitute material terms of this Agreement.
2. Council will render the following services:
 - a. Counsel and inform private business concerns located outside of the City, existing businesses and the business community of the availability of opportunities within the City of Haines City and within its utilities service area of which they may take advantage and counsel them regarding their suitability to participate in available federal and state economic development programs and grants.
 - b. Work to develop and retain existing businesses.

- c. Counsel and inform private business concerns about the development of infrastructure plans for the expansion of business district and the creation of business and industrial parks.
- d. Counsel and inform private business concerns about annexation strategies.
- e. Counsel and inform private business concerns on strategies designed to foster the best possible pro-business environment within the City.
3. The Council's services will be rendered largely at 608 Ingraham Avenue, Suite B, Haines City, Florida 33844; but that Council will, on request, come to City Hall or such other places as designated by the City to meet with the City's representatives.
4. In performance of Council's services, the actual services and the hours that representatives of the Council will work on any given day and devote to performance of the services contemplated by this Agreement will be entirely within Council's control; and the City recognizes that Council, as an independent private not-for-profit corporation, will devote such number of hours and effort as is reasonably necessary to fulfill the spirit and purpose of this Agreement.
5. The City will pay Council the total sum of One Hundred Fifty Seven Thousand Dollars (\$157,000.00) annually payable in equal quarterly payments on or before the fifth day of the beginning each quarter.
6. The parties agree that the term of this Agreement will commence on the execution date of this Agreement and shall continue for five (5) years from the date of the execution of this Agreement. Prior to August 1st of any year that this Agreement is in existence, either party hereto can notify the other that the Agreement is not to continue beyond the current fiscal year. In addition, either party may terminate this agreement by providing the other with ninety (90) days written notice of termination for any reason or no reason. In the absence of any such notification, this contract will run from year to year up to the maximum period of five (5) years.
7. The Council and its agents shall be deemed to be independent contractors, and not agents, employees or representatives of the City and shall not attain rights or benefits under the Civil Service or Pension Ordinances of the City nor any rights generally afforded classified or unclassified employees; further they shall not be entitled to the Florida Workers Compensation benefits as employees of the City.

8. The Council will not discriminate against any employee employed in the performance of this Agreement or against any applicant for employment because of age, race, creed, color, handicap, national origin, or sex.
9. The City's performance and obligation to make the payments to Council contemplated by this Agreement are contingent upon the City's annual budget allocations.
10. The Council affirms that at no time has the Council, the individual members of its Board of Directors or its affiliates been convicted of a Public Entity Crime pursuant to Section 287.133(2), Florida Statutes; and Council recognizes that such a conviction during the term of this Agreement may result in the termination of this Agreement.
11. The City will consider the employment of unauthorized aliens by Council a violation of Section 274 (A)(e) of the Immigration and Naturalization Act. Such violation shall be cause for unilateral cancellation of the Agreement.
12. The Council agrees that all acts to be performed by it in connection with this Agreement shall be performed in strict conformity with all applicable federal, state and local laws and regulations, if any.
13. Council acknowledges that it has obtained independent legal advice concerning the negotiation of this Agreement and shall obtain independent legal advice, as needed, to ensure its compliance with such applicable laws and regulations, if any.
14. The City shall have right to conduct quarterly audits of Council's records at such place and time as may be reasonably convenient to Council, concerning the application of public funds to ensure that such public funds are used only for the public purpose specified in this Agreement and shall provide a report at the City's request in such detail as required to meet audit needs of the City. The City recognizes that the funds paid to Council pursuant to this Agreement will be deposited in a general checking and/or savings account of Council pending use.
15. The Council's representative will appear before the City's Commission on a quarterly basis to (1) provide Council's assessment of the economic development activities and climate in the City and the Central Florida area, and (2) provide an explanation of the City's economic development initiatives. The City's City Manager will meet with the Council's representative(s) on a quarterly basis to (1) provide the City's assessment of the economic

development activities and climate in the City and the Central Florida area, and (2) provide an explanation of the City's economic development initiatives.

16. The Council shall be responsible for all work performed and expenses incurred by Council. The parties expressly agree that the City will not be liable to any vendor, subcontractor or third party for any expenses or liabilities incurred under contracts, sub-contracts, or financial obligations entered into by Council.
17. The City does not assume any liability for the acts, omission to act, or negligence of Council, its Board of Directors, agents, servants, or employees; nor will Council exclude liability for its own acts, omissions to act, or negligence to the City. In addition, Council agrees to be responsible for any injury or property damage resulting from any activities conducted by Council.
18. To the extent permitted by law, Council agrees to indemnify and hold the City harmless from and against any and all claims or demands for damages resulting from personal injury, including death or damage to property, arising out of any activities performed under this Agreement and will investigate all claims at its own expense. However, the City does not waive any defense of sovereign immunity or increase the limits of its liability upon entering into this contractual relationship.

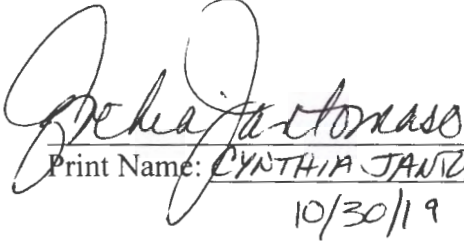
MISCELLANEOUS

19. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties at their respective places of business.
20. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City and Council and their respective successors and assigns.
21. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
22. Amendments. The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever except by written instrument signed by both parties; not shall any such amendment that affects the rights of an assignee be effective without such assignee's consent.

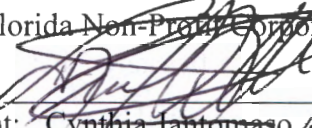
23. Execution of Counterparts. This Agreement may be executed in two counterparts, each of which shall be an original and both of which shall constitute but one and the same instrument.
24. Pre-suit Mediation. Disputes arising under this Agreement must first be mediated by a Florida Supreme Court-certified Civil Mediator in accordance with Chapter 44, Florida Statutes. The parties agree that the mediation shall occur within thirty (30) days of the date mediation is requested by either party. The Mediator shall be agreed upon, but if the parties are unwilling or unable to agree, the parties agree that a Civil Mediator from Central Florida Mediation Group, LLC shall be selected by striking names from the mediators in that Group. The parties agree to mediate in good faith, be bound by the Mediation Agreement (if any), pay Mediator fees promptly and share them on an equal basis unless otherwise agreed upon by the parties. Litigation may not be commenced until after mediation has been (i) declared an impasse by the Mediator, or (ii) terminated in writing by one or both of the parties. The confidentiality provisions of the Mediation Confidentiality and Privilege Act (Section 44.403, Florida Statutes) shall apply to any such pre-suit mediation.
25. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The venue of any legal action to enforce or interpret this Agreement shall be in Polk County, Florida.
26. Captions. The captions or headings of this Agreement are for convenience only and do not define, limit or describe the scope or intent of any provisions or sections of this Agreement.
27. Entire Agreement. This Agreement constitutes the entire Agreement between City and Council. No waiver consent, modification or change in terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements representations or warranties, expressed or implied, not specified herein, regarding this Agreement. Any terms and conditions of any purpose order or other document in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on City and will not apply to this Agreement. City and Council, by the signatures below of their authorized representatives, acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

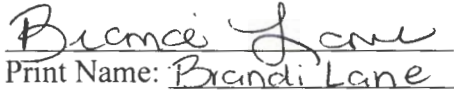
IN WITNESS WHEREOF, the parties have executed this Agreement at Haines City, Florida, this day and year first above written.

Witnesses:

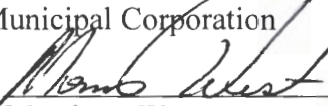

Print Name: CYNTHIA JANTOMASO
10/30/19

HAINES CITY ECONOMIC
DEVELOPMENT COUNCIL, INC.,
A Florida Non-Profit Corporation

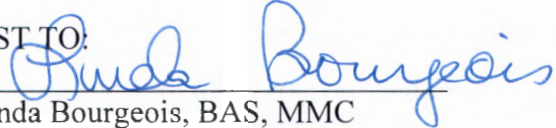
By: 
Print: Cynthia Jantomaso Russel L. Mouton, II
As Its: President/CEO Chair
10/30/19


Print Name: Brandi Lane

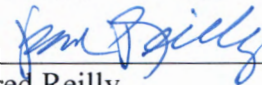
CITY OF HAINES CITY, FLORIDA
A Municipal Corporation

By: 
Morris L. West, 10/17/19
Mayor-Commissioner

ATTEST TO:

By: 
Linda Bourgeois, BAS, MMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

By: 
Print: Fred Reilly
As Its: City Attorney