

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT BETWEEN THE CITY OF DENTON AND THE DENTON CHAMBER OF COMMERCE

This Agreement is made between the City of Denton, Texas, (“City”) and the Denton Chamber of Commerce (“Chamber”) for the purpose of providing for a program to promote economic development through the joint efforts of the parties hereto, who in consideration of the mutual promises, agree as follows:

1. **Chamber Office of Economic Development (“Office”).** During the term of this Agreement, the Chamber shall maintain an Office of Economic Development managed by the Vice President of Economic Development, who shall perform the duties of the office.
2. **Duties of the Office.** The Chamber shall:
 - a. Develop an annual comprehensive Marketing Plan and produce print, digital, and promotional materials to market Denton to companies, site selectors, brokers, and developers.
 - i. Goals:
 1. Increase DentonEDP.com page views by 20% over FY 2016-17;
 2. Increase unique users on DentonEDP.com by 20% over FY 2016-17; and
 3. Collect baseline social media data to establish next year’s goals.
 - ii. Deliverables: The Chamber must present the annual comprehensive Marketing Plan in November of the year following execution of this Agreement to the Economic Development Partnership Board and every November thereafter. The plan must include:
 1. Strategies/timelines for print and digital ad buys;
 2. A schedule for maintenance and updates to DentonEDP.com;
 3. Social media (platforms used, type of content to be posted, and posting schedule; and
 4. Planned marketing trips.
 - iii. Metrics: The Chamber must provide the following to the City’s Director of Economic Development a:
 1. Monthly Activity Report on DentonEDP.com, including a page view summary, top referral sources, and top keyword sources;
 2. Monthly Facebook Insights Summary Report, including page views, reach, and post engagements;
 3. Monthly Twitter Activity Summary, including number of tweets and impressions; and

4. Quarterly LinkedIn Activity Report, including profile views within the prior 90 days, post views by month, and search appearances by week.
- b. Recruit prospective companies in Denton's target industries of aviation/aerospace, advanced manufacturing, renewable energy, research and development, information technology, and supply chain logistics/distribution by attending target industry trade shows, consultant's forums, and select conventions/business meetings/special events.
 - i. Goal: Collect baseline data to establish next year's goals
 - ii. Deliverables: The Chamber must provide monthly reports to the City's Director of Economic Development detailing the prior month's marketing trips. The Chamber will provide a fiscal year-end report to the City's Director of Economic Development on the outcomes of the year's marketing trips.
 - iii. Metrics: The Chamber must provide the following to the City's Director of Economic Development:
 1. Monthly reports: expenditures per trip, names/organizations of direct contacts made by Chamber Economic Development staff, and follow up activities undertaken with each contact; and
 2. Year-end reports: inquiries, leads, prospects, proposals, site visits, locations, etc., and to which marketing trip they relate.
- c. Serve as the point of contact and coordinate responses to leads originating from sources other than the Texas Governor's Office of Economic Development and the Dallas Regional Chamber.
 - i. Goals:
 1. Forty-two (42) engagements or proposals; and
 2. Six (6) site visits.
 - ii. Deliverables: The Chamber must provide monthly reports to the City's Director of Economic Development detailing the prior month's lead/project activity.
 - iii. Metrics: The Chamber must provide in the report to the City of Denton's Director of Economic Development the following: Source of lead (including the name/contact information of the company, site selector, broker, or developer); company type; project name; site needs; capital investment; jobs created; whether a proposal was submitted; conversion of proposals into further requests for information, site visits, etc.

- d. Prepare monthly Chamber-only activity reports (excluding prospect responses by the City), including current year budget and actuals to date, for the Economic Development Partnership Board.
 - i. Deliverables: The Chamber must provide the reports to the City of Denton's Director of Economic Development by close of business on the first Thursday of each month.
- e. Present an update/budget request to the Denton City Council during the City's annual budget process, and include the following with the request:
 - i. Deliverables: The Chamber must provide in its request Performance measures; Prior year accomplishments, process improvements, and cost containment efforts; Goals for the coming fiscal year; Three prior fiscal year budgets and actuals; and The current year budget and actuals to date.
- f. Maintain memberships and involvement in economic development organizations and groups such as the International Economic Development Council, the Texas Economic Development Council, Team Texas, and TexasOne.
- g. Provide an accounting of activity to the City of Denton's Director of Economic Development.
 - i. Deliverables: The Chamber must provide a Profit and Loss Budget Performance Statement on a quarterly basis, its annual audited financials, and its annual Form 990 to the City's Director of Economic Development.
- 3. **Support Services and Funding.** The Chamber shall provide the office space, equipment, and support staff necessary to the operations of the Office. For Fiscal Year 2017-18, the Chamber shall solicit and contribute private sector funds of at least \$70,000, and the City shall provide funding in the amount of one lump-sum of \$238,836, which may be funded from the General Fund, Utilities Funds, or some combination thereof. The balance of any unused City funds shall be returned to the City at the end of the fiscal year.

Any funds provided by the City pursuant to this Agreement shall be retained in an account separate and segregated from the Chamber's general operating fund and shall only be used for the purpose provided for in this Agreement. The Chamber and the Office shall keep current and accurate records of all funds received and expended, as well as deliverables and metrics specified herein, which shall be subject to inspection and audit by the City at all reasonable times. All such records shall be subject to the Texas Public Information Act, Tex. Gov't Code Ch. 552.

- 4. **Independent Status of Office.** The Office shall be under the direct supervision and control of the Chamber and all personnel of the Office shall be considered employees or agents of

the Chamber and not of the City. The Chamber shall be responsible for the processing of all benefits or payment liabilities of such employees or agents, including the withholding or payment of personal income or social security taxes, as provided by applicable law, and the payment of worker's compensation premiums.

5. **Insurance.** The Chamber shall maintain policies of insurance for the duration of the Agreement, as outlined in Attachment A, to protect against liability arising from the operation of the Office. The Chamber must provide a copy of the Certificate of Insurance showing the City added as an insured within a reasonable time of execution of this Agreement and each time there is a change in coverage or carrier, a copy must be provided to the City of Denton's Director of Economic Development.
6. **INDEMNITY. THE CHAMBER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES FROM ANY AND ALL CLAIMS, SUITS, OR LIABILITIES ARISING FROM OR RELATED TO ANY ACT OR OMISSION OF THE CHAMBER, ITS OFFICERS, DIRECTORS, OFFICIALS, EMPLOYEES, OR REPRESENTATIVES IN THE PERFORMANCE OF THIS AGREEMENT. THIS INCLUDES PROPERTY DAMAGE, PERSONAL INJURY OR DEATH AND ALSO COVERS COSTS OF SUIT AND ATTORNEYS FEES.**
7. **Term of Agreement.** This Agreement shall be effective from October 1, 2017, through September 30, 2018.
8. **Termination.** Either party may terminate this Agreement by giving written notice to the other party thirty (30) days in advance of the termination date, in which case any unexpended funds provided by the City shall be returned to the City within fifteen (15) days from the date the written notice is mailed to the Chamber. If the Chamber fails to meet the Deliverables or Metrics required under this Agreement, and it results in termination of the Agreement by the City, then the Chamber will not be eligible for any future funding from the City for a one (1) year period.
9. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may only be modified by the subsequent mutual written agreement executed by the City and the Chamber.
10. **Waiver.** Any waiver by the City of any provision or condition of this Agreement shall not be construed to be a waiver of any other provisions or conditions of this Agreement.
11. **Governing Law.** This Agreement shall be governed by the laws of the State of Texas. The City expressly does not waive any defenses to any claims of any sort by virtue of this

Agreement, including its Sovereign Immunity, and states that this is an economic incentive only and not subject to the provisions of Chapter 271 Tex. Loc. Gov't Code, Subchapter I.

12. **Severability.** Should any provision of this Agreement be adjudged illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the legality, validity of enforceability of the Agreement as a whole or any sections, subsections, sentences, or clauses herein.

EXECUTED this the _____ day of _____, 2017.

CITY OF DENTON

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY: _____

DENTON CHAMBER OF COMMERCE

By: _____

Its: _____

Attachment A

INSURANCE REQUIREMENTS

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Chamber, the Chamber shall provide and maintain until the agreement has been terminated, the minimum insurance coverage as indicated hereinafter.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the Chamber shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
 - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Chamber shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Chamber shall either double the occurrence limits or obtain Owners and Chambers Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. General Liability Insurance:

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Chamber. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] Automobile Liability Insurance:

Chamber shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned, hired, and non-owned autos.