

**PUBLIC SERVICE AGREEMENT BY AND BETWEEN
THE LEE’S SUMMIT ECONOMIC DEVELOPMENT COUNCIL
AND
THE CITY OF LEE’S SUMMIT, MISSOURI**

This Agreement, made and entered into this _____ day of _____, 2016, is by and between the Lee’s Summit Economic Development Council (the “EDC”), a Missouri non-profit corporation, and the City of Lee’s Summit, Missouri, a Missouri constitutional charter city (the “City”).

WITNESSETH:

WHEREAS, the EDC was created, in part, to assist the City in expanding and diversifying the economic base of Lee’s Summit through the attraction and retention of business and industry and the EDC has demonstrated its ability to attract and retain business and industry in the City; and

WHEREAS, the City, by Ordinance No. 4611, did levy a license tax on certain gross receipts of hotels, motels and similar places of business, the resulting revenue of which was to be used to promote the general economic welfare of the City, including, but not limited to the attraction and retention of business and industry to the community and/or the promotion and provision of facilities for tourism, conventions, and visitors (“Hotel/Motel Tax”);; and

WHEREAS, the Business and Industry Fund was established for the deposit of the Hotel / Motel Tax revenue to provide funding for this Public Service Agreement, and others as the City Council determines how best to expend the Hotel / Motel Tax revenue for its stated purpose; and

WHEREAS, EDC leadership continues to contribute to the City’s economic environment with participation in development discussions, community asset advocacy, and economic development strategies; and

WHEREAS, the Mayor and City Council have adopted an Economic Development Vision Statement that “Lee’s Summit will build upon and promote its unique downtown, education excellence and cultural heritage to create and nurture a business environment which fosters entrepreneurship, commercial and neighborhood redevelopment and the attraction and retention of high quality jobs in targeted businesses. In doing so, the tax base will grow ensuring the city’s continued ability to deliver an outstanding quality of life and services to both businesses and residents.”; and

WHEREAS, the City has determined that it is in the best interests of the City, and important to the promotion of the general economic welfare of the City, to contract with the EDC for the performance of economic development services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings and mutual benefits from the services set forth herein, the EDC and the City agree as follows:

I. SCOPE OF SERVICES

The EDC shall perform economic development services for the benefit of the community. EDC will work independently and collaboratively with City Staff, as necessary, to provide the following services (the “Services”):

- A. EDC will serve as the resource group for potential community investors seeking private sector development and investment strategies.
- B. EDC will collaborate with City leadership to develop strategies that support the City’s economic development vision and provide avenues for targeted development activities.
- C. EDC will advocate at the local, regional, state and federal level, as applicable, in pursuit of the community’s economic development goals.
- D. EDC will partner with the public and private sectors to continue to develop strategies to maximize investment in the **commercial and neighborhood redevelopment**, including the target area of **downtown** Old Lee’s Summit.
- E. EDC will continue to participate in the work to attract, **expand and retain businesses** and support **entrepreneurship**.
- F. EDC will improve the community product to support and **attract knowledge based industries, high quality jobs**, and the creative and entrepreneur class.

II. TERM AND TIME OF PERFORMANCE

The term of this Agreement shall be from July 1, 2016 to June 30, 2017. Within ninety (90) days prior to the end of the term, EDC shall provide a written report summarizing outcomes from the previous calendar year which includes direct evidence of the extent to which the performance measures outlined in Section III of the Agreement have been achieved, projected budget for its next fiscal year, and its request for renewal of this public service agreement, if applicable.

III. PERFORMANCE MEASURES.

Evaluation of whether the EDC is satisfactorily and successfully performing the duties and obligations set forth in this Agreement shall be measured by the following:

- (1) During the term of this agreement the creation of an additional \$2.5 Million Dollars of payroll within the City of Lee's Summit as compared to the prior July 1st to June 30th year.
- (2) The creation of at least 50 new quality jobs, as defined by the Missouri Department of Economic Development, pursuant to the Missouri Quality Job Act RSMo. Sec. 620.1875 through Sec. 620.1900, during the term of this agreement.
- (3) During the term of this agreement the creation of an additional \$6 Million Dollars in investment in development and/or redevelopment within the City of Lee's Summit as compared to the prior July 1st to June 30th year.

The above stated performance measures shall be used as guidelines to be measured against each succeeding year. Further the EDC must document how their direct involvement and efforts contributed to the specific performance measure being met.

IV. COMPENSATION AND METHOD OF PAYMENT

The City hereby agrees to compensate the EDC for the Services in the amount of \$250,911 annually, payable in 12 monthly installments coinciding with the City's fiscal year. Said amount includes reimbursement for all expenses incurred by the EDC in providing the Services. All compensation for the Services is subject to annual appropriation by the City.

V. AUDIT, INSPECTION OF RECORDS, AND PERFORMANCE REVIEW

The EDC shall permit an authorized representative of the City to inspect and audit all data and records of the EDC related to its performance under this Agreement.

EDC shall be required to complete a detailed annual budget submitted to the EDC Board of Directors for approval.

EDC shall submit an accounting of all funds spent by EDC for the preceding fiscal year on or before December 1, 2016.

VI. SUBCONTRACTS

The EDC and the City hereby agree that this Agreement shall not be assigned, transferred, conveyed or otherwise disposed of without the prior consent of the other party to the Agreement.

VII. REPRESENTATION ON BOARD

It is agreed that the EDC's Board of Directors has been created to oversee the operation of the EDC, and the City will possess two voting positions on the Board of Directors consisting of the Mayor and City Manager (or their designees).

The Mayor and City Manager (or their designees) shall also have a voting position on the EDC Executive Board of Directors, and shall serve as ex officio members of all subcommittees.

VIII. NON-DISCRIMINATION PROVISIONS

The EDC will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, or age.

IX. COMPLIANCE WITH THE LAW

All parties shall comply with all applicable federal, state and local laws, ordinances, codes and regulations.

X. CONFLICT OF INTEREST/ POLITICAL ACTIVITY

The elected officials, public officials, employees and agents of the City shall comply with all applicable laws and regulations relating to conflicts of interest with regard to the work and compensation covered by this Agreement.

The EDC shall not use the compensation paid through this Agreement for political activities or legislative activities. For the purpose of this Agreement, the terms "political activities" and "legislative activities" shall have the meanings ascribed to them by the Internal Revenue Service.

EDC employees shall be prohibited from investing in an economic development project business while said business is seeking City approval of economic development incentives for the project.

XI. INDEPENDENT CONTRACTOR

The EDC is not authorized or empowered to make any commitments or incur any obligation on behalf of the City, but merely to provide the Services provided for herein as an independent contractor.

XII. CANCELLATION, TERMINATION OR SUSPENSION

- A. This Agreement may be terminated at any time by written, mutual agreement of the parties. The City may terminate the Agreement immediately if funds are not appropriated for the Services described herein. The City shall have the right to terminate this Agreement in the event that the EDC is in default or violation of the terms or provisions of this Agreement and fails to cure such default or violation in the manner specified in subsection 'B' below.
- B. In the event of such default or violation by the EDC, the City shall send to the EDC by certified mail a Notice Demand to Cure Default, explaining the specific nature and extent of the default or violation. The EDC shall cure or remedy said violation or default within forty-five (45) working days after receipt of said Notice, unless a longer time is agreed upon by both parties in writing. In case the default is not cured or remedied within forty-five (45) working days or a longer time if agreed upon, the City may exercise its option to terminate this Agreement upon forty-five (45) days written notice thereafter. Termination as aforesaid shall not relieve the EDC of liability to the City for damages sustained by the City by virtue of any breach of this Agreement.
- C. In the event of termination, the City shall only be responsible for paying the pro-rated value of the monthly payment for the month in which termination is effective. The pro-rated amount shall be determined by dividing the monthly payment by the number of days in the month in which termination is effective, and multiplying this daily amount by the number of days up to the effective date of termination. If termination is effective after the full monthly payment for the subject month has been paid, the EDC shall refund the difference between the amount of the full monthly payment and the pro-rated amount to the City within 14 days of the effective date of termination.

XIII. NOTICE

Any notice required by this Agreement is deemed to be given if it is mailed by United States certified mail, postage prepaid, and is addressed as hereinafter specified.

Notice to the City shall be addressed to:

City Manager City of Lee's Summit
220 S.E. Green Street
P.O. Box 1600
Lee's Summit, Missouri 64063

Notice to the EDC shall be addressed to:

President/CEO
Lee's Summit Economic Development Council
218 S.E. Main Street
P.O. Box 710
Lee's Summit, Missouri 64063

XIV. AMENDMENTS

In order to provide necessary flexibility for the most effective execution of this Agreement, whenever both the City and the EDC mutually agree, changes to this Agreement may be effected by placing them in written form and incorporating them into this Agreement as an amendment.

XV. SEVERABILITY

It is mutually agreed that in case any provision of this Agreement is determined by a court of law to be unconstitutional, illegal, or unenforceable, it is the intention of the parties that all the other provisions of this Agreement shall remain in full force and effect.

XVI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to its subject matter an any prior agreements, understandings, or other matters, whether oral written, are hereby merged into and made a part hereof, and are not of further force or affect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CITY OF LEE'S SUMMIT, MISSOURI
a Missouri constitutional charter

LEE'S SUMMIT ECONOMIC
DEVELOPMENT COUNCIL, a Missouri
non-profit corporation

Stephen A. Arbo, City Manager

Chair of the Board of Directors

ATTEST:

ATTEST:

Denise R. Chisum, *City Clerk*

Secretary

Approved as to Form:

Trevor Stiles, *Chief of Litigation*
Office of the City Attorney