

**AGREEMENT BETWEEN THE CITY OF FORT PIERCE AND
THE ECONOMIC DEVELOPMENT COUNCIL OF ST LUCIE COUNTY, INC.**

THIS AGREEMENT ("Agreement") is made and entered into on this _____ day of _____, 2024, by and between the CITY OF FORT PIERCE, FLORIDA, a municipal corporation, whose address is 100 N. U.S. Highway 1, Fort Pierce, Florida 34950 ("City"), and the ECONOMIC DEVELOPMENT COUNCIL OF ST. LUCIE COUNTY, INC., a Florida not-for-profit corporation, with its principal office located at 1790 S.W. Gatlin Boulevard, Suite 202, Port St Lucie, FL 34953 ("EDC") (collectively, "Parties").

WITNESSETH:

WHEREAS, the City seeks to promote and facilitate economic development within its jurisdiction to enhance the overall prosperity, job creation, and quality of life for its residents;

WHEREAS, the EDC has expertise, resources, and a mission aligned with fostering economic development and is willing to assist the City in achieving these goals; and

WHEREAS, since 2002, the EDC has performed the Services defined below in exchange for an annual "partnership" fee paid by the City; and

WHEREAS, the parties wish to formalize their understanding and to outline the EDC's specific deliverables and the City's expectations; and

WHEREAS, the City Commission finds that the Services performed by the EDC under this Agreement substantially serve a valid public purpose.

NOW THEREFORE, the Parties do hereby agree as follows:

1. **SCOPE OF SERVICES.** The EDC agrees to perform the following services (collectively referred to as the "Services"):
 - A. Develop and implement economic development strategies and programs that align with the City's goals.
 - B. Provide recommendations and support for business attraction, retention, and expansion initiatives. Facilitate partnerships between the City and private sector entities, non-profit organizations, and other stakeholders.
 - C. Assist in securing funding and resources for economic development projects.
 - D. Organize and conduct studies related to economic development, to include the King's Highway Jobs Corridor.
 - E. Provide regular written reports to the City on the progress and outcomes of economic development activities. Reports will be provided quarterly to City staff.

2. **DURATION.** The term of this Agreement shall be for one (1) year beginning on October 1, 2024.
3. **COMPENSATION.** The City agrees to compensate the EDC for the services rendered a total amount of SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$62,500).
4. **REPORTING AND ACCOUNTABILITY.** In addition to the reports required above, the EDC shall provide the City Commission with an annual report at a public meeting on or before September 30, 2025, detailing the progress of the economic development activities, project updates, and any other relevant information.
5. **AUDIT.** The EDC agrees that the City or any of its duly authorized representatives shall, until the expiration of at least three years, or as otherwise applicable under law, to include Public Records Laws, after receipt of any Payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the EDC involving transactions related to this Agreement. All required records shall be maintained until an audit is completed and all questions arising therefrom are resolved.
6. **NON-DISCRIMINATION.** The EDC covenants and agrees that it shall not discriminate against any employee or applicant for employment to be employed in the performance of the Agreement with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race or color; or, except where based on a bona fide occupational qualification, because of religion, sex, condition of pregnancy, national origin, age, handicap, or marital status.
7. **INDEPENDENT CONTRACTOR.** The EDC is and shall be an independent contractor and not an employee or agent of the City. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor between the City and the EDC, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement.
8. **INSURANCE REQUIREMENTS.** The EDC shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the EDC are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the EDC under the Agreement.

The parties agree and recognize that it is not the intent of the City that any insurance policy/coverage that it may obtain pursuant to any provision of this Agreement will

provide insurance coverage to any entity, corporation, business, person, or organization, other than the City and the City shall not be obligated to provide any insurance coverage other than for the City or extend its immunity pursuant to Section 768.28, Florida Statutes, and as may be amended from time to time, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, and/or any obligation to name the City as an additional insured under any other insurance policy or otherwise protect the interests of the City as specified in this Agreement.

Workers' Compensation Insurance & Employer's Liability: The EDC shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. Employers' Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis. Should scope of work performed by the EDC qualify its employee for benefits under Federal Workers' Compensation Statute (for example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

Commercial General Liability Insurance: The EDC shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent consultants and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability insurance, Certificates of Insurance and policies shall clearly state that coverage required by the Agreement

has been endorsed to include the City of Fort Pierce, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Business Auto Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read **"City of Fort Pierce, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and include [Agreement Name] and [Number]."** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Fort Pierce, 100 N. US Highway One, Fort Pierce, FL 34950, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Agreement to exceed the above limits, the EDC shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

Business Automobile Liability Insurance: The EDC shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the EDC does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the EDC to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Professional Liability Insurance: The Contractor shall agree to maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$2,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the City reserves the right, but is not obligated, to review and request a copy of the EDC's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, Independent Contractor warrants that the retroactive date equals or precedes the effective date of this Agreement. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Agreement, the EDC shall agree to purchase a SERP with a minimum reporting period not less than four (4) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

Waiver of Subrogation: By entering into this Agreement, the EDC agrees to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive

subrogation without an endorsement then the EDC shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

Deductibles: All deductible amounts shall be paid for and be the responsibility of the EDC for any and all claims under this Agreement. Where an SIR or deductible exceeds \$5,000, the City reserves the right, but is not obligated, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the EDC to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements referenced herein. It shall be the responsibility of the EDC to obtain Certificates of Insurance from all independent contractors and subcontractors listing the City as an Additional Insured without the language "when required by written contract". If the EDC, independent contractor and/or subconsultant maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the EDC/independent contractor/subcontractor.

The EDC may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form, the City shall be endorsed as an "Additional Insured."

The City by and through its Risk Management Division reserves the right, but is not obligated, to review, modify, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein from time to time throughout the term of this Agreement. All insurance carriers must have an AM Best rating.

A failure on the part of the EDC to execute the Agreement and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment of the award.

9. **INDEMNIFICATION.** The EDC shall, to the maximum extent permitted by law, indemnify the City and its officials, officers, agents, and employees from and against any and all liability, claims, demands, penalties, court costs, judgments, damages, losses, (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), and costs (including reasonable attorney fees, litigation, arbitration, mediation, appeal expenses) to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the EDC and persons employed by or utilized by the EDC in its performance of this Agreement.

The EDC's obligation to indemnify and hold harmless shall remain in effect and shall be binding upon the EDC whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

The EDC's failure to comply with this section's provisions shall constitute a material breach upon which the City may immediately terminate or suspend this Agreement.

10. **E-VERIFY SYSTEM.** All requirements of Section 448.095, Florida Statutes, shall be complied with by the EDC.

In accordance with, Section 448.095, Florida Statutes, the EDC shall register with and utilize the E-Verify System operated by the United States Department of Homeland Security to verify the employment eligibility of all new employees hired during the term of the Agreement and shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise utilize the E-Verify System to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement. If the EDC enters into a contract with a subcontractor performing work or providing services on its behalf, the EDC shall also require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Information on registration for and use of the E-Verify System can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>. The EDC shall, upon request, provide evidence of compliance with this provision to the City. A contract terminated pursuant to Section 448.095 is not a breach of contract and may not be considered as such. If the City terminates this Agreement with a contractor, the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated. The EDC is liable for any additional costs incurred by the City as a result of the termination of this Agreement under Section 448.095, Florida Statutes.

11. **SOVEREIGN IMMUNITY.** Nothing contained in this Agreement shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

12. **PUBLIC RECORDS.** The EDC shall abide by all public records laws, and specifically:
 - a. Keep and maintain public records required by the public agency to perform the service.
 - b. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the EDC or keep and maintain public records required by the public agency to perform the service. If the EDC transfers all public records to the public agency upon completion of the contract, the EDC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the EDC keeps and maintains public records upon completion of the contract, the EDC shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 772-467-3065, LCOX@CITYOFFORTPIERCE.COM, 100 N. US HIGHWAY 1, FORT PIERCE, FL 34950.

13. **SUCCESSORS AND ASSIGNS, ASSIGNMENT.** The City and the EDC each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.

Neither the City nor the EDC shall assign, sublet, convey or transfer its interest in this Agreement without the written consent of the other.

Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than the City and the EDC.

14. **AMENDMENTS.** Any amendments or modifications to this Agreement must be made in writing and signed by authorized representatives of both parties.
15. **NOTIFICATION.** All notices, requests, consents, and other communications required or permitted under this Agreement shall be in writing and shall be (as

elected by the person giving such notice) hand delivered by messenger or courier service or mailed certified mail (postage prepaid) return receipt requested, addressed to:

CITY:
City of Fort Pierce
City Manager's Office
100 North US Highway 1
Fort Pierce, FL 34950

WITH COPIES TO:
City Attorney's Office
100 North US Highway 1
Fort Pierce, FL 34950

EDC:
Economic Development Council of St. Lucie County, Inc.
1790 SW Gatlin Blvd, Suite 202
Port St. Lucie, FL 34953

Either party may change the above-listed address at which it receives written notices by so notifying the other Party in writing. Each such notice shall be deemed delivered (a) on the date delivered if by personal delivery, (b) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

16. **JURISDICTION; VENUE; AND WAIVER OF JURY TRIAL.** EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY: (A) AGREES THAT ANY SUIT, ACTION, OR OTHER LEGAL PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN THE STATE COURT SITUATED IN ST. LUCIE COUNTY, FLORIDA; AND (B) WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION, OR PROCEEDING IN ANY OF SUCH COURTS. EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ALL LITIGATION RELATING TO OR ARISING FROM THIS AGREEMENT.
17. **SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
18. **NO WAIVER.** No waiver by the City of any provision of this Agreement shall be deemed to be a waiver of any other provisions hereof or of any subsequent breach of the same, or any other, provision, or the enforcement thereof. City's consent to or approval of any act by the EDC requiring consent or approval shall not be deemed to render unnecessary the obtaining of City's consent to or approval of any subsequent

act by the EDC requiring consent or approval, whether or not similar to the act so consented or approved.

19. **COMPLIANCE WITH LAWS.** The EDC, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement. The City undertakes no duty to ensure such compliance, but will attempt to advise the EDC, upon request, as to any such laws of which it has present knowledge.

Before beginning services under this Agreement, the EDC shall complete, execute, and deliver the Affidavit Regarding the Use of Coercion for Labor or Services (Exhibit A) to the City.

20. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the City and the EDC and supersedes all prior agreements, understandings, or negotiations, whether written or oral.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, as of the date first above written.

ATTEST:

CITY OF FORT PIERCE:

Linda Cox, City Clerk

Linda Hudson, Mayor

**APPROVED AS TO FORM
AND CORRECTNESS:**

Date:

Sara Hedges, City Attorney

WITNESSES:

**ECONOMIC DEVELOPMENT COUNCIL
OF ST. LUCIE COUNTY, INC.**

By: *Rachel Savela*
Name: Rachel Savela
Address: 302 NE Gulfstream Ave.
Port St. Lucie, FL 34983

Peter J. Tesch
Peter J. Tesch, President

By: *Alexi Garcia*
Name: Alexi Garcia
Address: 190 SW Ridgecrest Dr
Port St. Lucie, FL 34953

11/01/24
Date: _____