

## CONSULTING AGREEMENT

Consulting Agreement (“Agreement”) made this \_\_\_th day of May, 2019, by and between , City of Olmsted Falls a municipal corporation in and of the State of Ohio (the “City”) with a principal place of business at 26100 Bagley Rd., Olmsted Falls Ohio 44138 and T. Jordan & Associates, LLC, a limited liability company with its principal place of business at 15830 Edgecliff Rd., Cleveland Ohio 44111 (the “Consultant”).

1. Engagement. Upon the terms and conditions contained in this Agreement, the City hereby engages the Consultant, and the Consultant hereby accepts the engagement, and agrees to consult, with the City.

2. Consulting Services. During the term of this Agreement (the “Term”), at the request of the City, the Consultant shall give to the City the benefit of the Consultant's skill in performing the tasks and delivering the milestones, deliverables and other items described in the Project Overview document attached hereto as Schedule A hereto (the “Consulting Services”). The Consultant will devote such time as is reasonably necessary to perform the Consultant's duties and obligations under this Agreement. Consultant will keep the City updated, promptly upon the City's request, of any progress, problems, and/or developments of which Consultant is aware regarding the Services.

3. Compensation. The Consultant's compensation for the satisfactory performance of the Consulting Services rendered under this Agreement shall be as described on Schedule B hereto. In addition, the City shall reimburse the Consultant for reasonable travel expenses that are pre-approved in writing by the City.

4. Term. Unless terminated earlier pursuant to Section 10 below, the Term of the Consultant's engagement shall be for an initial period of 6 months commencing on or about June 1, 2019 and continuing through December 31, 2019; the Term shall be renewed for additional one (1) year periods unless either the Consultant or the City shall give notice of non-renewal to the other party not less than thirty (30) days prior to the end of the immediately prior Term.

5. Assistance. During the Term, the City shall make available to the Consultant such facilities and personnel as are reasonably necessary to enable the Consultant to provide the Consulting Services.

6. Nondisclosure and Trade Secrets.

(a) Prior to the date hereof, and during the term of this Agreement, Consultant has received, and may continue to receive and otherwise be exposed to, “Information”. Information means confidential information (whether or not reduced to writing or other medium) concerning the organization, business or finances of the City or business proposing to do business with the City including, but not limited to, trade secrets or confidential information respecting inventions, products, designs, methods, techniques, systems, processes, engineering data, software programs, algorithms, formulae, works of authorship, internal organization, employee lists, customer and supplier lists and accounts, pricing and costing methods, projects,

plans, proposals and non-public financial information, and all derivatives, improvements, and enhancements to any of the above which are created or developed by Consultant under this Agreement.

(b) Consultant acknowledges that the Information is the sole, exclusive and extremely valuable property of City. Accordingly, Consultant agrees to segregate all Information from information of other municipalities and agrees not to reproduce any of the Information without City's prior written consent, not to make use of knowledge which the Consultant acquires respecting the Information except for and on behalf of the City, and solely within the course and scope of the performance of this Agreement, and not to disclose directly or indirectly all or any part of the Information in any form to any third party, either during or after the term of this Agreement. This obligation shall be in force unless and until such Information becomes generally available to the public by publication or other legal means (but not as a result of breach of this Agreement or other unlawful use or publication). Consultant realizes that the above applies to all confidential information of others entrusted to the City.

(c) Consultant shall not make, use or permit to be used any City Property otherwise than for the benefit of the City. The term "City Property" shall include all notes, notebooks, memoranda, reports, lists, records, drawings, sketches, specifications, software programs, software code, data, graphics, computers, test equipment, models, tools, cellular telephones, pagers, credit and/or calling cards, keys, access cards, documentation or other materials of any nature and in any form, whether written, printed, electronic or in digital format or otherwise, relating to any matter within the scope of the business of the City or concerning any of its dealings or affairs and any other City Property in Consultant's possession, custody or control (whether prepared by Consultant or others). Consultant further agrees that Consultant shall not, after the termination of its engagement hereunder, use or permit others to use any such City Property. Consultant acknowledges and agrees that all City Property shall be and remain the sole and exclusive property of the City. Immediately upon the termination of Consultant's engagement hereunder Consultant shall deliver all City Property in its possession or under its control, and all copies thereof, to the City.

(d) Consultant shall not disclose or otherwise make available to the City in any manner any confidential and proprietary information received by Consultant from third parties. Consultant has not entered into, and agrees to not enter into, any agreement, either written or oral, in conflict herewith.

7. Independent Contractor. In performing the Consulting Services, the Consultant shall be deemed to be, and shall be, an independent contractor, and not a joint venturer, partner, employee or agent with or of the City. Neither the City nor the Consultant shall have the power to bind the other, contractually or otherwise.

8. Assignment. The Consultant may not assign any of Consultant's rights or delegate any of its obligations under this Agreement without the prior written consent of the City. Any attempted assignment or delegation in violation of this Section shall be void. The City may assign this Agreement to any third party. This Agreement will be binding on the parties and their permitted successors and assigns hereunder.

9. Termination. This Agreement may be terminated prior to the expiration of the Term by (i) either party if the other breaches any of its obligations hereunder and fails to cure such breach within 10 days of receiving written notice from the other, or (ii) upon mutual agreement of the parties. Upon any termination of this Agreement, neither the Consultant nor the City shall have any further obligation to the other, except the terms and conditions of Sections 3, 6, 7, and 10 will survive termination of this Agreement for any reason.

10. General Provisions.

(a) Waiver of any provision of this Agreement, in whole or in part, in any one instance shall not constitute a waiver of any other provision in the same instance, nor any waiver of the same provision in another instance.

(b) Any notice required or permitted under this agreement shall be given in writing by (i) delivery in hand or (ii) nationally recognized overnight courier such as Federal Express, to the parties at their respective addresses specified above, or at such other address for a party as that party may specify by notice. Notice shall be effective upon receipt.

(c) UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ABSENT GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN ALL CASES, THE MAXIMUM LIABILITY OF EITHER PARTY TO THE OTHER HEREUNDER SHALL BE LIMITED TO THE TOTAL AMOUNT OF CONSULTING FEES THE CITY HAS PAID THE CONSULTANT HEREUNDER.

(d) This Agreement: (i) may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument; (ii) shall be governed by and construed under the laws of the State of Ohio exclusive of its choice of law and of conflict of law principles; (iii) constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written communications, negotiations, representations, courses of dealing, agreements, and the like between the parties in such respect; (iv) may be amended, modified, or terminated, and any right under this Agreement may be waived in whole or in part, only by a writing signed by both parties; (v) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of this Agreement; and (vi) may be enforced only in courts located in Cuyahoga County, Ohio, and the parties hereby agree that such courts shall have venue and exclusive subject matter and personal jurisdiction, and consent to service of process by registered mail, return receipt requested, or by any other manner provided by law.

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Executed as of the date first above written.

City of Olmstead Falls

By: \_\_\_\_\_  
Name: James P. Graven  
Title: Mayor

CONSULTANT

T. Jordan and Associates, LLC

By: \_\_\_\_\_  
Name: Thomas Jordan  
Title: President

SIGNATURE PAGE CONSULTING AGREEMENT

**CERTIFICATE OF CITY FISCAL OFFICER**

The undersigned fiscal officer of the City hereby certifies that the moneys required to meet the obligations of the City during the year 2019 under this Consulting Agreement have been lawfully appropriated by the Council of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

\_\_\_\_\_  
Name:

Title:

Date: \_\_\_\_\_

## SCHEDULE A

### Project Overview

1. The Consultant shall perform economic development services as directed by the City.
2. The Consultant shall coordinate local county state, incentives for the city's businesses as directed, and assist in the drafting of any related correspondence and/or agreements or offers of incentives.
3. The Consultant shall and coordinate City's application for any public or private grants relating to economic development.
4. The Consultant shall assist in the development of any promotional material or respond to requests for information concerning economic development.
5. The Consultant shall keep informed of all available government and private incentives available to the City.
6. The Consultant shall be available for any public meetings relating to economic development.

SCHEDULE B

Compensation

1. The consultant shall be paid \$2,000 a month for services.
2. Any amount of hour in excess of 25 hours in any month shall be charged at \$75.00 an hour.

SCHEDULE C

Background Technology

The following is a complete list of all Background Technology relevant to Consultant's Services with City:

No Background Technology  
 See Below

Background Technology owned by Consultant or provided by sublicense (with copy of licensees attached).

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