

AGREEMENT
BETWEEN
THE CITY OF KINGSFORT, TENNESSEE
AND
THE KINGSFORT CHAMBER FOUNDATION
“SMALL BUSINESS DEVELOPMENT
AND ENTREPRENEURSHIP PROGRAM

THIS AGREEMENT made and entered into as of the 1st day of July, 2023, by the City of Kingsport, hereinafter called "CITY", and the Kingsport Chamber Foundation, Inc., hereinafter called "FOUNDATION".

W I T N E S S E T H:

WHEREAS, FOUNDATION is a not-for-profit agency as defined by Tenn. Code Ann. §§6-54-111 and 48-51-101 *et seq.*, and is eligible to receive funds for the purpose contained herein; and

WHEREAS, CITY is authorized by Tenn. Code Ann. §6-54-111 *et seq.*, and the official compilation of the Rules and Regulations of the State of Tennessee, Rules of the Comptroller of the Treasury, Division of Special Audit, chapter 0380-3-7, relating to Standard Procedures for Appropriating and Disbursing Municipal Funds to Non-Profit Charitable Organizations, to provide financial assistance to nonprofit organizations and not-for-profit corporations; and

WHEREAS, the parties desire to work together in the common effort of actively assist in the establishment of new small businesses and the growth and development of existing small businesses in Kingsport; and

WHEREAS, CITY has decided to contract with and provide financial resources to an outside entity for small business development support and CITY has requested that FOUNDATION be that outside entity pursuant to said state law which CITY has approved; and

WHEREAS, the FOUNDATION is willing to create the Office of Small Business Development and Entrepreneurship; and

WHEREAS, the parties desire to set forth the responsibilities and obligations of the parties in this effort and the terms and conditions with respect to the use of funds provided.

NOW THEREFORE, in consideration of the premises, the parties agree as follows:

1. **TERM.** The term for this Agreement is from July 1, 2023, to June 30, 2024. Accordingly, funds allocated by CITY to FOUNDATION can be used to reimburse FOUNDATION for eligible project expenses beginning on July 1, 2023. In no event will CITY participate in project expenses incurred after June 30, 2024.

2. **SCOPE OF WORK.**

- a) The scope of work for this Agreement will be to assist in the establishment of new small businesses and the growth and development of existing small businesses in Kingsport through the creation of the Office of Small Business Development and Entrepreneurship. Notwithstanding anything in this agreement to the contrary, all funds provided by the CITY under this agreement will be used only to accomplish the purposes set forth in this Section II.
- b) Except as otherwise specified in this Agreement, the specific strategies, plans and efforts to provide such services will be determined and implemented by FOUNDATION with input from CITY and other members of the small business community.
- c) FOUNDATION will seek to accomplish the items listed below and positively affect the measures described in the Appendix. It is understood that unusual circumstances affecting the economy may impact the achievement of these items.
- d) The parties may make changes as mutually agreed upon in the scope of the work of this Agreement. Such changes will be incorporated in written amendments to this Agreement.
- e) Under separate agreement, FOUNDATION may manage the small business incubator program.
- F. The parties agree to jointly establish the criteria, qualifications, and job description for the fulltime small business development professional contemplated to be hired by FOUNDATION pursuant to this Agreement. Accordingly, the FOUNDATION agrees:
 - 1. To employ an executive director of the Office of Small Business Development and Entrepreneurship and an Administrative Assistant meeting the criteria for and qualifications established, in conjunction with CITY and implementing the job description agreed to by the parties; and
 - 2. To maintain the necessary support staff to provide logistical support and advice to the executive director of the Office of Small Business Development and Entrepreneurship; and
 - 3. Coordinate with CITY Public Information staff on Marketing and Promotion of

events related to FOUNDATION programming; and

4. To provide some or all of the following, as needed:

- i. Establish an education course in entrepreneurship – “School of Entrepreneurship-Small Business University” . . .Celebrate both success and failure to encourage risk taking.
- ii. Establish a pool of funds (loans, grants, venture capital)
- iii. Expand the Business Advisory Panel. Make it available to more businesses. (Make it mandatory for those who receive a loan, grant, venture capital.)
- iv. Establish incentives program.
- v. Continue seminars & training opportunities.
- vi. Live Here. Play Here. Shop Here. Dine Here. “Shop Here First Program”
- vii. Establish a database of goods and services available and/or needed locally – Business-to-Business.
- viii. Create an environment that makes Kingsport the location of choice for healthcare providers.
- ix. Link to Holston Business Development Center.
- x. Link to FOUNDATION networking opportunities.
- xi. Link to local business parks and retail/commercial locations.
- xii. Link to KHRA for redevelopment opportunities.
- xiii. Link to developers.
- xiv. Link to government agencies (especially city).
- xv. Link to KEDP.
- xvi. Solicit and address concerns/problems from existing businesses. Use a combination of BMA member, business leader, city staff and executive director of the Office of Small Business Development

- xvii. Maintain a working knowledge of available state/federal programs that can assist small business.
- xviii. Link to grant writers as appropriate (critical for technology-based businesses).
- xix. Link to Sullivan County Economic Development Partnership
- xx. Link to tourism (KCVB & NETTA)
- xxi. Link to First Tennessee Development District
- xxii. Link to Northeast Tennessee Tech Council
- xxiii. Recruit people to start businesses in Kingsport (Local, national & international)
- xxiv. Create positive attitude for doing business in Kingsport.
- xxv. Continue lobbying local, state & federal officials for the benefit of small business.
- xxvi. Develop program for employee recruiters (Program will be similar to one developed for physicians)
- xxvii. Continue *Kingsport Times-News* Small Business Start-up Contest
- xxviii. Emphasize Ribbon Cuttings / Groundbreakings
- xxix. Expand program that helps businesses recruit key employees.

3. **MONITORING AND REPORTING REQUIREMENTS.** FOUNDATION will provide CITY with quarterly written reports due on or before the third Monday of September, December, March and June. On the third Monday in September and the third Monday in March FOUNDATION will appear at the regularly scheduled work session of the Board of Mayor and Aldermen to review the reports and present an update. The report will detail the efforts taken by FOUNDATION toward accomplishment of the items listed in Section II, as well as a statement of other efforts and accomplishments within the scope of the Agreement not specifically included in Section II. Within the same report, FOUNDATION will assess the impact its efforts have had on small business growth and development and will annually report on the measures in the Appendix of this Agreement.

4. **COMPENSATION.**

a) CITY will pay FOUNDATION ONE HUNDRED THOUSAND and NO/100 Dollars

annually for services provided under this Agreement as described in Section II Scope of Work.

- b) CITY will pay the FOUNDATION FIFTY THOUSAND DOLLARS and NO/100 (\$50,000) on July 1, 2023, and FIFTY THOUSAND DOLLARS and NO/100 (\$50,000) January 1, 2024, provided the agreement is not otherwise terminated.
- c) FOUNDATION will be responsible for raising an additional amount of at least Twenty-Five Thousand and NO/100 to Fifty Thousand and NO/100 (\$25,000- \$50,000) from sources other than CITY to fund the balance of this program. FOUNDATION will send CITY reports of the actual net operating cost on a quarterly basis at the same time the reports required in Section III are issued. The reports will be provided in a format that is generally compatible with quarterly budget line-item reports used by city departments. FOUNDATION will also provide some in kind contributions including work from members of the staff of FOUNDATION to assist the small business growth and development efforts from time to time and in meeting the performance initiatives contained this Agreement.
- d) CITY will review all quarterly reports; however, reimbursement of any cost pursuant to this Section will not constitute a final determination by CITY of the allowability of such costs and will not constitute a waiver of any violation of the terms of the Agreement.
- e) FOUNDATION prior to receiving funds pursuant to this Agreement it must file with the city clerk a copy of an annual report of its business affairs and transactions that includes, but is not limited to:
 - i. Either a copy of the entity's most recently completed annual audit or an annual report detailing all receipts and expenditures in a form prescribed by the comptroller of the treasury and prepared and certified by the chief financial officer of such nonprofit organization;
 - ii. A description of the program that serves the residents of the municipality; and
 - iii. The proposed use of the municipal assistance.
 - iv. A listing of revenue sources detailing what percent of the total operating budget they cover.

The report filed pursuant hereto shall be open for public inspection during regular business hours of the city clerk's office. Financial reports shall be available to fiscal officers of the CITY and shall be subject to audit under Tenn. Code Ann. § 6-56-105.

FOUNDATION will permit CITY or its representatives to inspect all work, materials, payrolls, and other records with regard to the project, and to audit the books, records, and accounts of FOUNDATION with regard to the project. Such records will be retained for this purpose for a period of not less than three years.

- f) FOUNDATION will establish and maintain an accounting, record-keeping and reporting system consistent with generally accepted accounting principles and no less than those recommended in the Accounting Manual for Recipients of Grant Funds in Tennessee, published by the Comptroller of the Treasury, State of Tennessee. FOUNDATION further agrees to submit to CITY a copy of its most recent audited report at the same time said report is submitted to the State.

- 5. **ASSIGNMENT, SUBCONTRACTING OR ACQUISITION OF CONSULTANTS.** The FOUNDATION will not assign or subcontract any portion of this Agreement without the prior written approval of the CITY. FOUNDATION will not assign any rights to funds provided herein without the prior written authorization of the CITY.

- 6. **CHANGED CONDITIONS AFFECTING PERFORMANCE.** FOUNDATION will immediately notify CITY of any change in conditions or of any other event that may significantly affect its ability to perform the project in accordance with the provisions of this Agreement.

- 7. **STAFFING.**

- a) FOUNDATION will pay its employees under this Agreement at least the Federal Minimum Wage.
- b) In carrying out the work of this Agreement, FOUNDATION will not discriminate against any employee or applicant for employment because of race, color, religion, creed, gender, national origin, age, disability, or any other legally protected status.

- 8. **TERMINATION.** This Agreement may be terminated by either party by giving written notice to the other at least 30 days before the effective date of such termination. In the event of such termination, FOUNDATION will be entitled to receive just and equitable compensation for any eligible operating expenses paid or incurred as of the termination date, but in no event will this amount exceed ONE HUNDRED THOUSAND and NO/100 Dollars (\$100,000).

- 9. **EXTENSION OF AGREEMENT.** The parties may extend this Agreement for subsequent years subject to any applicable negotiated changes.

- 10. **OPERATING INFORMATION.** The parties agree to respond to inquiries made by designated representatives of the parties or their designees in a timely fashion. CITY designates the City Manager as its representative for this Agreement. FOUNDATION

designates the Corporate Secretary as its representative for this Agreement. FOUNDATION will provide any relevant information requested by CITY concerning the small business program of FOUNDATION, including, but not limited to contracts for third party financial arrangements, annual financial statements, and audit reports, schedules, and fees.

11. **CITY-DESIGNATED REPRESENTATIVES.** The City Manager will serve as the CITY representative on the Board of FOUNDATION and will be entitled to attend all meetings of FOUNDATION and participate on all issues before the Board.
12. **ASSURANCES.** FOUNDATION hereby assures CITY that FOUNDATION is legally entitled to funds from CITY.
13. **REPORTING.** FOUNDATION will submit to the Board of Mayor and Aldermen a quarterly report setting out how funds allocated by CITY to FOUNDATION assist in carrying out the purpose of the project as described under the terms of this Agreement. The report shall be transmitted to the Board of Mayor and Aldermen.
14. **INDEPENDENT CONTRACTOR.** FOUNDATION'S relationship with CITY is that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. FOUNDATION is not the agent of the CITY and is not authorized to make any representation, contract, or commitment on behalf of CITY. Neither FOUNDATION nor their employees will, under any circumstances, be considered servants, agents, partners or a joint venture of CITY, and CITY will at no time be legally responsible for any negligence or other wrongdoing by FOUNDATION, or their employees or agents.
15. **INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS.** FOUNDATION will indemnify, defend, and hold harmless CITY, including without limitation, its officers, agents, employees, and volunteers from and against:
 - a) Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which CITY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with FOUNDATION'S performance under the terms of this Agreement, excepting any liability arising out of the sole negligence of the CITY. Such indemnification includes any damage to the person(s), or property(ies) of FOUNDATION and third persons.
 - b) Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to FOUNDATION and their officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

IN WITNESS WHEREOF, the parties have set their hand to this Agreement in duplicate originals effective the date first above written.

Kingsport Chamber Foundation

City of Kingsport, Tennessee

Miles Burdine, Secretary

Patrick W. Shull, Mayor

Date

Date

Printed Name

Attest:

Attest:

**Aundrea Salyer, Executive Director
Office of Small Business Development &
Entrepreneurship**

Angela Marshall, Deputy City Recorder

Approved as to form:

Rodney B. Rowlett, III, City Attorney