

ECONOMIC DEVELOPMENT AGREEMENT

This ECONOMIC DEVELOPMENT AGREEMENT ("Agreement"), effective as of _____, 2018 ("Effective Date") between the City of High Point, North Carolina, a municipal corporation and a political subdivision of the State of North Carolina ("City"), and High Point Convention and Visitors Bureau, Inc., a 501(c)6 nonprofit corporation ("High Point CVB") (collectively, "Parties," each, a "Party").

WITNESSETH :

WHEREAS, the City, acting by and through its City Council ("City Council") is authorized to make and execute contracts of the type hereinafter described pursuant to N.C. Gen. Stat. §§ 160A-11 and 160A-12 and 1989 N.C. S.L. 86-93 ("S.L. 1989-39"); and

WHEREAS, High Point CVB is authorized to enter into this Agreement, without restriction or condition, with the City pursuant to S.L. 1989-39 and High Point CVB's articles of incorporation and bylaws; and

WHEREAS, the City and High Point CVB entered into an Agreement for Provision of Convention and Visitors Bureau on July 1, 2017 ("Provision Agreement"), whereby High Point CVB agreed to provide Convention and Visitors Bureau Services for the City of High Point and to expend funds to promote, improve, construct, finance, or acquire facilities or attractions that enhance the development of tourism in High Point; and

WHEREAS, the City and High Point CVB desire to undertake an economic development project in the City of High Point, the purpose of which is to construct a multi-use stadium and entertainment venue as the anchor element of what is known as the Catalyst Project of the City of High Point. The intent of this Agreement is that High Point CVB agrees to support this economic development activity by committing to the City an amount of funds equal to \$250,000.00 per year over the period of 20 years from the Public Finance Closing Date established in this Agreement;

WHEREAS, the ~~city~~-City has contracted with the High Point CVB pursuant to S.L. 1989-39 for convention and visitor bureau services ~~for the City of High Point~~ and the City acknowledges that such services have ~~hereto for~~ been provided in a first class manner for which the City is grateful. Further, the City and the High Point CVB acknowledge that the High Point CVB will contribute \$250,000 per year for 20 years to assist the City in paying the debt incurred in the construction of the multi-use downtown stadium which the parties agree will promote tourism within the ~~city~~-City of High Point and will further the missions of both organizations; and

WHEREAS, by City Council Ordinance # ____ ("Ordinance"), the City Council of High Point authorized and approved the execution and delivery of this Agreement; and

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the City and High Point CVB agree as follows:

REPRESENTATIONS AND WARRANTIES

High Point CVB Warranties. The High Point CVB warrants: (a) it has the power to enter into this Agreement with the City pursuant to S.L. 1989-39, Sections 6(b) and its articles of incorporation and bylaws without restriction and that annual funding of the Agreement is not conditioned on any event other than those provided for in this Agreement; (b) that High Point CVB's execution and delivery of this Agreement and its compliance with the provisions hereof will not result in a default, not waived or cured, under any High Point CVB restriction or any agreement or instrument to which High Point CVB is now a party or by which it is bound.

The City of High Point Warranties. The City makes the following additional representations and warranties: The City is a body politic and a corporate and political subdivision of the State of North Carolina which acts through

the City Council as its governing body and is authorized and empowered to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

TERMS AND CONDITIONS

Payments Due. Payments shall commence on the date of the closing of any public financing for the Stadium ("Public Finance Closing Date"), and the initial payment of \$250,000.00 shall be due on the Public Finance Closing Date and continue on the same date of each year thereafter during the term of this Agreement.

Term. The term of this agreement shall be 20 years from the Public Finance Closing Date.

Contingent on Stadium Construction. This Agreement for participation by High Point CVB is contingent on the completion of construction of a multi-use stadium and entertainment venue ("Stadium") as the anchor project of the Catalyst Project by the City of High Point. If no Stadium is constructed in the Catalyst Project Area by the City of High Point, then High Point CVB shall have no further obligation to the City under this Agreement.

Financial Support for Economic Development Project. High Point CVB agrees to support this economic development activity by committing to the City of High Point an annual amount of funds equal to \$250,000.00, for twenty (20) years, as long as the City continues to contract with and ~~fully allocate all~~ allocates equivalent occupancy tax funds to the High Point Convention and Visitors Bureau.

Use of City Funds Restricted. The City of High Point commits that all funds received from High Point CVB under this Agreement will be used for the following: (1) repayment debt on the Stadium; and (2) any capital, maintenance, and repair necessary to support the Stadium and associated activities, unless otherwise modified by mutual agreement of the parties.

No Ownership or Interest Conveyed. Nothing in this Agreement is intended to result in ownership of real property or any other rights to Stadium property or use by High Point CVB by virtue of this Agreement. This Agreement will not result in High Point CVB having any right to control or legal interest in any future development or ownership of the Stadium, its real property, or any activities associated with its operation or operations of the City.

Limited Termination for Non-Allocation. Notwithstanding any other provision of the Agreement, High Point CVB shall not be obligated pursuant to the Payments Due provision of this Agreement in any financial year occurring during the Term of this Agreement in which the City fails to: ~~(a) fully allocate all at least \$250,000.00 in occupancy tax funds to High Point CVB pursuant to S.L. 1989-39, Section 6(b) for the purpose of this Agreement; or (b) contract with High Point CVB for the provision of High Point Convention and Visitors Bureau pursuant to S.L. 1989-39, Section 8(a).~~ The City shall notify High Point CVB in writing of any such non-allocation at the earliest date possible. The termination of High Point CVB's obligations pursuant to this subsection shall not terminate the Agreement in its entirety.

Amendment. This Agreement may only be amended by mutual written agreement of the City and High Point CVB, ratified by the governing board of each Party.

Enforcement. The City is entitled to take whatever action at law or in equity, including those remedies under this Agreement that may be appropriate, that may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Company under this Agreement.

Non-waiver. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or is a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Binding Effect. This Agreement is binding, in accordance with its terms, upon and shall inure to the benefit of the City and High Point CVB, and their respective successors and assigns. In the event of the dissolution of the City or the consolidation of any part of the City with any other political subdivision or the transfer of any rights of the City to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Agreement shall bind and inure to the benefit of the successors of the City from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the City has been transferred.

Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter.

Governing Law. This Agreement and all documents executed in connection herewith are construed in accordance with and governed by the laws of the State of North Carolina.

Headings. The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

Relationship of Parties. Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency, employment relationship, franchise relationship or taxable entity between the Parties, nor shall either Party have the right, power or authority to create any obligations or duty, express or implied, on behalf of the other Party hereto, it being understood that the Parties are independent contractors vis-à-vis one another.

By signing below, High Point CVB and the City of High Point agree to all terms, covenants, and conditions contained in the Agreement. High Point CVB's Representative warrants that it is an authorized agent of High Point CVB with the power to enter High Point CVB into this Agreement.

IN WITNESS WHEREOF, the City, acting by and through the City Council, has caused this Agreement to be executed in its name and on its behalf effective as of the Effective Date.

CITY OF HIGH POINT, NORTH CAROLINA

Jay Wagner
Mayor, City of High Point

(SEAL)

ATTEST:

City of High Point, City Clerk

IN WITNESS WHEREOF, the Company, acting by and through its duly authorized officer, has caused this Agreement to be executed in its name and on its behalf, effective as of the Effective Date.

HIGH POINT CONVENTION AND VISITORS BUREAU,
INC.

By: _____
Leah Price Chairwoman of High Point CVB