

CONTRACT FOR EXECUTIVE SEARCH FIRM SERVICES

THIS CONTRACT is entered into this ____ day of February, 2018 between the CITY OF GAINESVILLE, a municipal corporation existing under the laws of the State of Florida (the "City") and THE MERCER GROUP, INC., a Georgia corporation registered to do business in Florida ("Contractor").

WHEREAS, the City requires the services of an experienced, well-qualified executive search firm to recruit, assess and screen highly-qualified candidates for the City's Equal Opportunity Director position;

WHEREAS, the Contractor has extensive experience in conducting successful executive searches to fill critical executive/management level positions within large organizations, and is willing and able to perform executive search firm services as more specifically set forth herein.

NOW, THEREFORE, in consideration of the covenants, agreements and promises of the City and Contractor contained herein, it is agreed by and between the parties as follows:

ARTICLE I - Scope of Services

1. Develop recruitment materials that describe the City's Equal Opportunity Director position, the City organization, the community, and other pertinent information. Advise candidates that their submittals will be subject to disclosure under the Public Records Act.

2. Develop a timeline and strategy for recruitment. At a minimum, the Contractor shall perform an executive search and nationally advertise to identify highly-qualified, diverse candidates. The strategy for recruitment must include outreach efforts that ensure the inclusion of qualified candidates from diverse backgrounds.

3. Acknowledge receipt of candidates' application materials.

4. Review resumes and conduct initial screening of all candidates' applications utilizing the job criteria provided by the City, subject to final approval by the City Commission.

5. Within thirty (30) days from the date that this Contract is executed by the parties, provide to the City a list of at least three (3) fully developed candidates for the City's Equal Opportunity Director position together with information about each candidate, including the candidates' resumes; candidate data sheets; search metrics; recorded video interviews; a written summary detailing the background, achievements, and strengths of the candidates; and an outline of the candidates' most promising qualifications.

6. Assist with the onsite portion of the selection process, including scheduling interviews and other onsite activities, developing interview questions or tests, and making travel arrangements.

7. Assist the City as needed in the selection of the finalist and negotiating the job offer with the finalist.

8. Provide notification to all candidates not selected for the position.

9. Ensure the selection process conforms to the law, as well as the City's hiring policies, procedures, and practices.

10. Work in close coordination with the City's Human Resources Department on all matters under this Contract, and respond to the City's Human Resources Director or designee, as directed.

11. Respond to all candidates inquiries, including production of all correspondence throughout the recruitment process; and perform any administrative activity incidental to, required by and generally included as part of the service of a full executive recruitment.

12. The Mercer Group, Inc.'s Proposal titled "Executive Search & Recruitment for Senior-Executive Level Positions," dated December 27, 2017, is hereby incorporated by reference. To the extent of any conflicts between the terms of this Contract and the Proposal, the Contract shall prevail.

Standard of Care. The Contractor shall undertake services covered by this Contract using the requisite degree of skills necessary to produce an acceptable work product. The standard of care applicable to the Contractor's services will be the degree of skill and diligence normally employed by executive search firms performing the same or similar services.

ARTICLE II - Term

This Contract shall become effective upon execution and continue through June 30, 2018. Time is of the essence, and all services and deliverables shall be completed within the above time period.

ARTICLE III - Compensation

- A. The City shall compensate the Contractor in the amount of Fifteen Thousand Seven Hundred Fifty Dollars (\$15,750.00) for the full and faithful performance of this Contract. The compensation shall be payable as follows:
1. One-third (1/3) of the compensation will be due, and deemed earned, upon search commencement for the Equal Opportunity Director (ie., upon advertisement).
 2. One-third 1/3 of the compensation will be is due, and deemed earned, upon delivery of the semi-finalist application materials.
 3. The final 1/3 balance will be due, and deemed earned, when the successful candidate enters into a service relationship with the City.
 4. In the event that the City is not satisfied with the candidates presented, or that no candidate from the initial recruitment enters into a service relationship with the City, the Contractor will continue to search for candidates and will perform all above-referenced services as needed to select and place a candidate, that is acceptable to the City, into service, for no additional compensation to the Contractor, and only reimbursement of the Contractor's out-of-pocket expenses.

Except as provided below, the City shall reimburse the Contractor for all reasonable travel expenses associated with the services provided under Article I, provided such travel has been approved by the City in advance in writing. With respect to such expenses, the Contractor's invoice shall include an explanation by type and amount, along with copies of supporting documentation for the expense or disbursement.

The City shall pay the Contractor the sums due, as described above, upon verified invoice within 30 days of receipt.

ARTICLE III - City Responsibilities

The City shall provide Contractor with the Equal Opportunity Director job criteria, as well as generally assist the Contractor in the selection process

ARTICLE IV - Miscellaneous

A. Records/Audit.

Contractor shall maintain records sufficient to document its completion of the scope of services established by this Contract. These records shall be subject at all reasonable time to review, inspect, copy and audit by persons duly authorized the City. These records shall be kept for a minimum of three (3) years after completion of the Contract. Records which relate to any litigation, appeals or settlements of claims arising from performance of the Contract shall be made available until a final disposition has been made of such litigation, appeals or claims.

Florida has a very broad public records law. By entering into this Contract with the City, the Contractor acknowledges that it will comply with the Florida Public Records Act (Chapter 119, Florida Statutes). In complying with the Florida Public Records Act, the Contractor shall:

Keep and maintain public records required by the City to perform the service;

Upon request from the City's custodian of public records, provide the City 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;

Ensure that all 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 City; and

Upon completion of the Contract, transfer to the City, at no cost, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the contractor 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.

Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of this Contract between the City and the Contractor. The City may pursue all remedies for breach of this Contract.

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 HUMAN RESOURCES ASSISTANT DIRECTOR AT 352-393-8750 OR JEFFERSONLL@CITYOFGAINESVILLE.ORG OR PO BOX 490, STATION 20, GAINESVILLE, FLORIDA 32627-0490.

B. Non-interference. The Contractor shall not approach the selected candidate for any other position as long as the person is employed by the City.

C. Termination. The Contract may be terminated by either party without cause upon thirty (30) days prior written notice to the other party. In the event of termination, the Contractor shall be compensated for services rendered up to and including the day of termination.

D. Successors. The provisions of this Contract shall be binding on the successors and assigns of the parties hereto.

E. Applicable Law. This Contract shall be governed and interpreted by the laws of the State of Florida, except for its conflict of laws provisions, and venue shall be in the courts of Alachua County, Florida.

F. Termination. The Contract may be terminated by either party without cause upon thirty (30) days prior written notice to the other party. In the event of termination, the Contractor shall be compensated for services rendered up to and including the day of termination.

G. Successors. The provisions of this Contract shall be binding on the successors and assigns of the parties hereto.

H. Applicable Law. This Contract shall be governed and interpreted by the laws of the State of Florida and venue shall be in the courts of Alachua County, Florida.

I. Independent Contractor. Contractor shall be considered an independent contractor and as such shall not be entitled to any right or benefit to which City employees are or may be entitled to by reason of employment. Except as specifically noted in the Contract, Contractor shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the Contractor in the full performance of the Contract.

J. Entire Agreement. This Contract constitutes the entire agreement between the parties hereto. Modifications of this Contract shall be in writing, signed by the parties, and incorporated as written amendments to the Contract prior to becoming effective.

K. Indemnification. The Contractor shall indemnify the City, its officials, agents and employees, and save it harmless from any and all suits, claims, actions, demands, fines, fees, expenses, penalties, proceedings, damages, liability and expense, including attorneys' fees, of any kind or nature arising or growing out of or in any way connected with Contractor's performance of the Contract, whether by act, omission, negligence, or intentional wrongdoing of the Contractor, its agents, servants, employees or others.

L. Insurance. Contractor shall provide proof of insurance in the amounts below:

Workers' Compensation Insurance providing coverage in compliance with Chapter 440, Florida Statutes.

Public Liability Insurance (other than automobile) consisting of broad form comprehensive general liability insurance including contractual coverage of \$1,000,000 per occurrence (combined single limit for bodily injury and property damage). The City shall be an additional insured on such Public Liability Insurance and the Contractor shall provide copies of endorsements naming the City as additional insured.

Automobile Liability Insurance consisting of property damage coverage of \$500,000 per occurrence (combined single limit for bodily injury and property damage).

The Contractor shall furnish the City a certificate of insurance in a form acceptable to the City for the insurance required. Such certificate or an endorsement provided by the Contractor must state that the City will be given thirty (30) days written notice (except the City will accept ten (10) days written notice for non-payment) prior to cancellation or material change in coverage.

M. Sovereign Immunity. The Contractor and the City agree that nothing in this Contract shall be interpreted as a waiver of the City’s sovereign immunity under 768.28, Florida Statutes.

N. Notice. Any notice, acceptance, request or approval from either party to the other party given or requested under the provisions of this Contract shall be in writing and either delivered personally or sent by certified or registered mail, return receipt requested, and shall be deemed to have been received when either deposited in a United States Postal Service mailbox or personally delivered with signed proof of delivery. The City’s representative and the Contractor’s representative are as follows:

CITY: Assistant Human Resources Director, Lisa Jefferson

CONTRACTOR: W.D. Higginbotham, Jr.
3245 S. Atlantic Avenue, Suite 607
Daytona Beach Shores, Florida 32118-8202

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed for the uses and purposes therein contained on the day and year first above written.

WITNESS: THE MERCER GROUP, INC.

By: W.D. Higginbotham, Jr.
Senior Vice President

WITNESS: CITY OF GAINESVILLE

By: Human Resources Director

Approved as to form and legality:
