COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507
(251) 580-2564
(251) 580-2500 Fax
agary@baldwincountyal.gov
www.baldwincountyal.gov

ANU GARY
Records Manager

MONICA E. TAYLOR
Assistant Records Manager

October 20, 2016

Mr. Stanley Raye (Lee) Lawson, Jr.
Chief Executive Officer
Baldwin County Economic Development Alliance, Inc.
Post Office Box 1340
Robertsdale, Alabama 36567

RE: Appropriation Agreement Aligned to the Baldwin County Fiscal Year 2016-2017 County Budget

Dear Mr. Lawson:

Please find enclosed a fully executed original *Agreement* approved during the October 4, 2016, Baldwin County Commission meeting. This *Agreement* appropriates county public funds (as follows) for activities benefiting a myriad of public purposes as set forth within the Agreement:

Baldwin County Economic Development Alliance ($350,000.00)

The term of the *Agreement* shall commence on October 1, 2016, and expire on September 30, 2017, and may be terminated per the parameters as set forth therein.

If you have not received a check within forty-five (45) days of receipt of this correspondence, please contact Eva Cutsinger, Senior Accountant, at (251) 580-2521.

If you have any questions or need further assistance, please do not hesitate to contact Ron Cink, County Administrator/Budget Director, at (251) 580-2550.

Sincerely,

ANU GARY, Records Manager
Baldwin County Commission

AG/met Item BA9

cc: Ron Cink
Kim Creech
Eva Cutsinger

ENCLOSURE

(BALDWIN COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER M/F)

RECEIVED
OCT 17 2016
BY: M/ek

STATE OF ALABAMA)

COUNTY OF BALDWIN)

AGREEMENT

WHEREAS, the BALDWIN COUNTY ECONOMIC DEVELOPMENT ALLIANCE, INC. (hereinafter referred to as "BC ECONOMIC DEVELOPMENT ALLIANCE"), is a nonprofit corporation the purpose of which is to promote the economic development of Baldwin County, Alabama; and

WHEREAS, the BALDWIN COUNTY COMMISSION (hereinafter referred to as "COMMISSION") remains the honorable county governing body of Baldwin County, Alabama; and

WHEREAS, the COMMISSION has determined that it would be in the best interest of the citizens of Baldwin County, Alabama, to continue and actively pursue economic development in Baldwin County, Alabama; and

WHEREAS, the BC ECONOMIC DEVELOPMENT ALLIANCE was established with the specific purpose of implementing a program of economic development to promote and improve the quality of life for the citizens of Baldwin County, Alabama; and

WHEREAS, the COMMISSION and BC ECONOMIC DEVELOPMENT ALLIANCE have agreed and intend to work in conjunction with one another to promote economic development in Baldwin County, Alabama; and

WHEREAS, the COMMISSION recognizes that §11-3-11 (19), Code of Alabama (1975) provides authority for county commissions of the State of Alabama to set aside, appropriate and use county funds or revenues for the purpose of developing, advertising and promoting the agricultural, mineral, timber, water, labor and all other resources of every kind of the county and for the purpose of locating and promoting agricultural, industrial and manufacturing plants, factories and other industries in the county; further, that the county commissions of the State of Alabama are authorized to enter into contracts with any person, firm, corporation or association to carry out the aforementioned purposes; and

WHEREAS, further, the COMMISSION recognizes that Section 6 of Act No. 239, 1931 Regular Session of the Legislature of Alabama [Local Acts Alabama, 1931, p. 100] as amended, and specifically amended by Act No. 351, 1953 Regular Session of the Legislature of Alabama [Acts of Alabama, Regular Session 1953, Vol. I, p. 417] provides authority for the COMMISSION to appropriate money to advertise and develop any of its resources; and

WHEREAS, further, the COMMISSION recognizes that the initiative and mission of the BC ECONOMIC DEVELOPMENT ALLIANCE will benefit Baldwin County, Alabama's economic development by promoting the area's many and varied resources, including, but not limited to, its industrial, manufacturing, technological and human / labor resources which will benefit said overall economic development resources which, collectively, promotes the economic well-being of the citizens of the county and, therefore, as collectively authorized by §11-3-11 (19), Code of Alabama (1975) and Section 6 of Act No. 239, 1931 Regular Session of the Legislature of Alabama, as

amended, the COMMISSION, by and through their Baldwin County Fiscal Year 2016-2017 Budget, approved funding assistance subject to the conditions set forth by this Agreement to the BC ECONOMIC DEVELOPMENT ALLIANCE to assist said BC ECONOMIC DEVELOPMENT ALLIANCE toward its economic development initiative and mission which will benefit Baldwin County, Alabama's economic development by promoting the area's many and varied resources, including, but not limited to its industrial, manufacturing, technological and human / labor resources which will benefit said overall economic development resources which, collectively, promotes the economic well-being of the citizens of the county; and

WHEREAS, further, the COMMISSION makes such funding assistance to the BC ECONOMIC DEVELOPMENT ALLIANCE respecting that the Supreme Court of the State of Alabama has ruled that Section 94 of the Constitution of Alabama 1901, as amended, is not violated when a public entity donates money or other thing of value in aid of a private individual or corporation if a public purpose is served. *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (Ala. 1994); and

WHEREAS, additionally, in accordance with, and respecting the parameters set forth by, Amendment No. 750 and Amendment No. 772 to the Constitution of Alabama 1901 the COMMISSION authorized said funding assistance to the BC ECONOMIC DEVELOPMENT ALLIANCE pursuant to *Resolution #2016-139 of the Baldwin County Commission* as adopted during the September 15, 2016, regular meeting of said honorable county governing body which instrument remains compliant with Amendment No. 750 and Amendment No. 772 to the Constitution of Alabama 1901.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto AGREE as follows:

1. The above recitals and statements are incorporated as part of this Agreement, and shall have the effect and enforceability as all other provisions herein.

2. The term of this Agreement shall commence October 1, 2016, and terminate on September 30, 2017, or in a shorter time as may be determined exclusively by the COMMISSION. The COMMISSION shall have the right to terminate this Agreement, with or without cause or reason, by giving thirty (30) days written notice to the BC ECONOMIC DEVELOPMENT ALLIANCE.

3. The COMMISSION's fiscal year commences October 1 and expires September 30 of the succeeding year. For Fiscal Year 2016-2017, the COMMISSION, subject to all terms and conditions herein, including without limitation Section 6. K., agrees to pay to the BC ECONOMIC DEVELOPMENT ALLIANCE the following amount, to wit:

FISCAL YEAR 2016-2017 (October 1, 2016 - September 30, 2017)
Not to exceed $350,000 as paid in quarterly installments of $87,500 each.

4. As a condition of receiving the COMMISSION's funding assistance referenced in Section 3. of this Agreement, the BC ECONOMIC DEVELOPMENT ALLIANCE shall perform the following services in conjunction with and for the benefit of the COMMISSION, to wit:

A. To seek out and employ a staff to oversee the programs and services of the BC ECONOMIC DEVELOPMENT ALLIANCE. The BC ECONOMIC DEVELOPMENT ALLIANCE shall have total control over the process of selection of said staff and shall be entirely responsible for said hiring or termination of said staff. The COMMISSION shall have no responsibility regarding the hiring, employment, compensation or termination of said staff and shall have no employment relationship whatsoever with said staff.

B. To provide and administer economic development services for the COMMISSION.

C. To seek, discover and endeavor to attract and promote new and expanding commercial prospects within Baldwin County, Alabama, and to create new jobs and employment and economic improvements and expansion for the benefit of the citizens of Baldwin County, Alabama.

D. To gather, keep updated, research and distribute information and data to be used as advertisements and presentations to general and specific business and industrial prospects.

E. To develop and secure tools of the trade such as maps, charts, photos, topographical maps, briefing facilities, brochures, reports, etc. necessary and required to adequately promote new and expanding business and industry.

F. To work with existing businesses for expansions, problem-solving, counseling and other services pertinent to their expansion.

G. To work for the mutual economic and industrial development of the Baldwin County, Alabama, and pursuant thereto to maintain contact, cooperate and work closely with other agencies and organizations with similar purposes such as the following: Alabama Department of Economic and Community Affairs; Alabama Development Office; industrial development departments of public and private utilities; local, area and regional planning and development agencies; highway, air and water transportation development organizations; and all other groups, organizations, agencies and individuals pertinent to the purposes stated herein.

H. To continue a public / private partnership program for economic development in Baldwin County, Alabama.

I. To recruit new economic development investment, including international recruiting efforts.

J. To secure real property through contract, deed, or option for the purpose of locating businesses and/or industry in Baldwin County, Alabama.

5. As a further condition of receiving the COMMISSION's funding assistance referenced in Section 3. of this Agreement, the BC ECONOMIC DEVELOPMENT ALLIANCE shall perform the following services in

conjunction with and for the benefit of the COMMISSION, to wit to specifically seek, discover and endeavor to attract and promote new and expanding commercial prospects for the South Alabama Mega Site located in North Baldwin County which promotion shall create new jobs and employment and economic improvements and expansion for the benefit of the citizens of Baldwin County, Alabama.

6. As a condition of receiving the COMMISSION's funding assistance referenced in Section 3. of this Agreement, the BC ECONOMIC DEVELOPMENT ALLIANCE, furthermore, expressly agrees to as follows:

   A. All BC ECONOMIC DEVELOPMENT ALLIANCE facilities, services, activities and membership shall be made available to the general public in accordance with BC ECONOMIC DEVELOPMENT ALLIANCE rules and policies.

   B. The BC ECONOMIC DEVELOPMENT ALLIANCE shall have a nondiscriminatory policy and its facilities, services, activities and membership will be available to the general public regardless of race, age, sex, disability or religion.

   C. The BC ECONOMIC DEVELOPMENT ALLIANCE shall not use any funding assistance referenced in this Agreement outside the provision of economic development services set forth in this Agreement and, furthermore, shall not use any of the funding assistance as set forth by this Agreement to aid any private or individual benefit. It being expressly understood, by the BC ECONOMIC DEVELOPMENT ALLIANCE, that the funding assistance referenced by this Agreement, as provided by the COMMISSION, be utilized, by the BC ECONOMIC DEVELOPMENT ALLIANCE, only toward their provision of economic development services set forth in this Agreement.

   D. The BC ECONOMIC DEVELOPMENT ALLIANCE understands that this Agreement and the relationship created hereby does not in any manner create, imply or otherwise vest any authority in the BC ECONOMIC DEVELOPMENT ALLIANCE on behalf of the COMMISSION. Furthermore, the BC ECONOMIC DEVELOPMENT ALLIANCE understands that this Agreement hereby expressly forbids the creation of an agency or any action that would create or imply that the BC ECONOMIC DEVELOPMENT ALLIANCE is an agent of the COMMISSION.

   E. The BC ECONOMIC DEVELOPMENT ALLIANCE shall take all steps at its own expense, as the COMMISSION may from time-to-time request, to indicate and assure that it is an independent contractor.

   F. The BC ECONOMIC DEVELOPMENT ALLIANCE understands that the COMMISSION has no financial interest in the business of the BC ECONOMIC DEVELOPMENT ALLIANCE and that the COMMISSION shall not be liable for any debts incurred by the BC ECONOMIC DEVELOPMENT ALLIANCE, nor shall the COMMISSION be deemed or construed to be a partner, joint venturer or likewise interested in the assets of the BC ECONOMIC

DEVELOPMENT ALLIANCE or profits earned or derived by the BC ECONOMIC DEVELOPMENT ALLIANCE, nor shall the BC ECONOMIC DEVELOPMENT ALLIANCE at any time use the name or credit of the COMMISSION in purchasing, or attempting to purchase equipment, supplies or other things whatsoever.

G. To the fullest extent allowed by law the BC ECONOMIC DEVELOPMENT ALLIANCE shall indemnify and hold the COMMISSION its County Commissioners, departments, employees, supervisors, insurer, agents, representatives and attorneys (for purpose of this Section 6. G. referred to collectively as "Commission") completely harmless from any and all claims, notices, violations, findings or orders of whatsoever kind or character which may arise or be made, or which are in any way related to or resulting from the work to be done and duties or obligations performed by the BC ECONOMIC DEVELOPMENT ALLIANCE or COMMISSION pursuant to this agreement, including, without limitation, attorney fees and legal expenses incurred as a result of the COMMISSION enforcing, defending, or complying with this Agreement, or otherwise addressing actions or claims made related in any way to this Agreement. The provisions of this Section 6. G. and the rights, duties and obligations set forth herein shall survive the expiration or termination of this Agreement.

H. The BC ECONOMIC DEVELOPMENT ALLIANCE shall ensure that all materials publicizing or resulting from the funding assistance referenced in this Agreement shall contain an acknowledgment of the COMMISSION's assistance with said acknowledgment of support made through the use of the following comparable footnote: "This activity was supported by the Baldwin County Commission."

I. The BC ECONOMIC DEVELOPMENT ALLIANCE shall not transfer or assign this Agreement or any of the rights or privileges granted herein without the prior written consent of the COMMISSION.

J. The BC ECONOMIC DEVELOPMENT ALLIANCE shall comply strictly with all laws of Baldwin County, Alabama, the State of Alabama, the United States of America and all rules and regulations of all applicable agencies thereof.

K. Notwithstanding anything written herein to the contrary, the BC ECONOMIC DEVELOPMENT ALLIANCE understands and agrees that all commitments made herein by the COMMISSION are subject to the availability of funds and, furthermore, the BC ECONOMIC DEVELOPMENT ALLIANCE agrees that if the COMMISSION determines at any time prior to the conveyance of any funding assistance set forth by this agreement that the subject funds are not available, then the COMMISSION shall no longer be obligated or required to provide any such funding assistance.

L. The BC ECONOMIC DEVELOPMENT ALLIANCE agrees, as a condition of receiving the funding assistance referenced in this Agreement, to:

1) Supply to the COMMISSION, within 30 days from a written request to do so, all applicable data that is necessary for the COMMISSION to ensure the proper expenditure of the subject funding appropriations and funding assistance.

2) File with the COMMISSION no later than June 1, 2017, a written report of its activities for the preceding period which commenced on October 1, 2016, to ensure the proper expenditure of the subject funding appropriation and funding assistance.

7. This Agreement, provided in the form as one (1) original instrument for the records of the BC ECONOMIC DEVELOPMENT ALLIANCE and one (1) original instrument for the records of the COMMISSION, represents the entire terms and conditions of the Agreement between the COMMISSION and the BC ECONOMIC DEVELOPMENT ALLIANCE. It shall be necessary to account for only one (1) such instrument or counterpart in proving this Agreement. This Agreement can be amended, during its term, only by written amendment executed by the COMMISSION and the BC ECONOMIC DEVELOPMENT ALLIANCE.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals this date, as follows:

BALDWIN COUNTY COMMISSION

By: J. TUCKER DORSEY
As Its: Chairman
Date: 10/18/16

ATTEST:

RONALD J. CINK
County Administrator/Budget Director

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public, in and for Baldwin County, Alabama, and the State of Alabama, hereby certify that J. TUCKER DORSEY, as Chairman of the Baldwin County Commission, and RONALD J. CINK, as County Administrator/Budget Director of the Baldwin County Commission, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such Chairman and County Administrator/Budget Director of the Baldwin County Commission, and with full authority, executed the same voluntarily on the day the same bears date for and as an act of said Baldwin County Commission.

GIVEN, under my hand and Seal this the 18th day of October, 2016.

Keri Green

NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA
My Commission expires: 11/23/19

BALDWIN COUNTY ECONOMIC DEVELOPMENT ALLIANCE, INC.
Post Office Box 1340
Robertsdale, Alabama 36567

STANLEY RAYE (LEE) LAWSON, JR.
As its: Chief Executive Officer
Date: 10/10/16

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public, in and for Baldwin County, Alabama, and the State of Alabama, hereby certify that STANLEY RAYE (LEE) LAWSON, JR., as Chief Executive Officer of the Baldwin County Economic Development Alliance, Inc., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Chief Executive Officer and with full authority, executed the same voluntarily for and as the act of said Baldwin County Economic Development Alliance, Inc., on this the day the same bears date.

GIVEN, under my hand and Seal this the 10 day of October, 2016.

Karen Hart Glover
NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA
My Commission expires: My Commission Expires 03/28/2018