

**ECONOMIC DEVELOPMENT AGREEMENT
TITUS SYSTEMS L.P. d/b/a CO COM CABLING
CITY OF PFLUGERVILLE, TEXAS**

THIS AGREEMENT by and between the City of Pflugerville, Texas, a home rule municipal corporation (City) and Titus Systems L.P., a Texas Limited Partnership (Co Com), is entered into on this 18th day of ~~April~~ ^{June}, 2008.

WHEREAS, Co Com desires to move its business operations into the corporate limits of the City of Pflugerville; and

WHEREAS, the City has established policies to adopt reasonable measures, as are permitted by law, to attract and promote the development of new and expanded business enterprises within the City and thereby enhance the economic stability and growth of the City; and

WHEREAS, the City has agreed to provide incentives and financial assistance to Co Com to encourage and promote job growth; and

WHEREAS, Co Com has agreed, in exchange and as consideration for funding by the City to satisfy and comply with certain terms and conditions; and

WHEREAS, the City and Co Com agree that the provisions of this agreement substantially advance a legitimate interest of the City;

NOW THEREFORE, for and in consideration of the promises and the agreements set forth herein, the City and Co Com hereby agree as follows:

I.

Performance

1. Co Com agree to move its business operations to the corporate limits of the City by July 1, 2008. This shall be evidenced by an issuance of certificate of occupancy by the City to Co Com and the location being open for business to the public.
2. Co Com agrees to hire at least 75 employees to work at Co Com's location in the corporate limits of the City. These employees are not required to reside within the corporate limits of the City. These employees shall report to the City location at least once a day.
3. Co Com agrees that at least 75% of all administrative functions shall be handled at the City location.

II.

Economic Incentives

1. The City and Co Com agree that this Agreement establishes a program for economic development as required by Chapter 380 of the Texas Local Government Code and that any portion of the Reimbursement Amount may be paid to Co Com in the form of an Economic Development Grant pursuant to Chapter 380.
2. City agrees to reimburse Co Com one thousand dollars (\$1,000.00) for each job at the City location.
3. City and Co Com agree that the job creation reimbursement shall be funded from sales tax revenues derived from actual sales from Co Com's City location.
4. City and Co Com agree that no reimbursement will be required until Co Com has employed at least 75 full time employees at its City location.
5. City and Co Com agree that no reimbursement will be required until the actual sales tax revenue derived from sales at Co Com's City location equal or exceed the amount of the reimbursement.
6. City and Co Com agree that the total reimbursement in any calendar year shall not exceed fifty thousand dollars (\$50,000.00).
7. City and Co Com agree that the total reimbursement for all calendar years combined shall not exceed one hundred thousand dollars (\$100,000.00).
8. City agrees that reimbursement payments shall be made within 60 days of the end of each quarter on the last day of March, June, September and December of the respective year.
9. City and Co Com agree that reimbursements will be based on the number of jobs at the end of each quarter in excess of the highest number of full time jobs reported for any previous quarter.

III. Miscellaneous

1. **Successor and Assigns.** This Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Neither party hereto may assign this Agreement without the prior written consent of the other party hereto.
2. **Severability.** If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be given the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.
3. **Governing Law.** This Agreement shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in Travis County, Texas.

4. Third Party Beneficiaries. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.
5. Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.
6. Time. Time is of the essence in the performance of this Agreement.
7. Attorney Fees. Should any party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.
8. Notices. All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered or on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the parties at the following addresses, or at such other addresses as shall be specified by notice.

If to the City:

City of Pflugerville
Attention: City Manager
100 East Main Street
P.O. BOX 589
Pflugerville, Texas 78691

With copy to:

Floyd Akers
City Attorney
P. O. Box 679
Pflugerville, Texas 78691-0679

If to Co Com:

Attn: JEFF PHIPPS
1821 Central Commerce Ct, Ste. 100
Pflugerville, TX 78664

With copy to:

Ty Runyan
1075 W. Yager Ln.
Austin, TX 78753

9. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

10. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one Agreement.

11. Representations and Warranties by Co Com. If Co Com is a limited partnership, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

12. Payment of Debt or Delinquency to the State or Political Subdivision of the State. Pursuant to Chapter 38, *City of Pflugerville Code of Ordinances*, Co Com agrees that any payments owing to Co Com under the Agreement may be applied directly toward any debt or delinquency that Co Com owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

13. Texas Family Code Child Support Certification. Co Com certifies that the limited partners are not delinquent in child support obligations and therefore is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.


14. Eligibility Certification. Co Com certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

Titus Systems, L.P.
A Texas Limited Partnership

By:

Name:

Title:


S. Titus Ruyon
Partner

City of Pflugerville
A Texas Home Rule Municipal Corporation

By: David Buesing
Name: David Buesing
Title: City Manager