

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of January, 2007 by and between the City of Gainesville, a municipal corporation of the State of Florida, (hereinafter referred to as the "City"), and the East Gainesville Development Corporation, Inc., a nonprofit corporation registered and in good standing with the Division of Corporations in the State of Florida (hereinafter referred to as the "Corporation").

WITNESSETH

The City and the Corporation, for and in consideration of the mutual covenants herein made and the benefits flowing from each party to the other, do hereby agree as follows:

SECTION 1. SCOPE OF SERVICES: The Corporation agrees to provide to the City the following services pursuant to City staff discussions with the East Gainesville Development Corporation Board, Board Chair and Administrative Agent, BCN Associates Inc. Services are to be provided on a fee for service basis and are performance based, see *Attachment A*:

- A. Enroll 11 prospective entrepreneurs in the NxLevel Training provided by the Corporation.
- B. Conduct the NxLevel training and have 9 students complete all modules of the program
- C. Provide Mini-Grants to students who complete top business plans.
- D. Provide on going technical assistance to graduates for the training

SECTION 2. TERM: This Agreement shall commence January 1, 2007 and terminate on September 30, 2007.

SECTION 3. COMPENSATION: In consideration of the services and activities actually, timely, and faithfully rendered by the Corporation, the City agrees to reimburse the Corporation an amount not to exceed Twenty Five Thousand Dollars (\$25,000) for eligible costs incurred during the period of this Agreement. The City will reimburse the Corporation for eligible costs enumerated in *Attachment A* attached hereto and incorporated herein by reference.

Corporation shall provide invoices and supporting documentation in a timely manner pursuant to *Attachment A*.

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All requests for reimbursement shall be addressed to:

Economic Development Director
City of Gainesville
PO Box 490
Gainesville, FL 32602-0490

Payment shall be submitted to:

East Gainesville Development Corporation, Inc.
c/o BCN Associates, Inc.
408 W. University Avenue, Sixth Floor
Gainesville, FL 32601

SECTION 5. RETURN OF FUNDS: Any City funds not expended for the services set forth herein shall be returned to the City.

SECTION 6. AUDIT, RECORDS, AND REPORTING:

The Corporation agrees to:

- A. Maintain financial records and reports relating to the utilization of all funds provided to the Corporation by the City and pursuant to the requirements of Florida's public records law. Within 180 days of the end of the Corporation's fiscal year, Corporation shall provide the City Economic Development Director two (2) copies of the Corporation's annual independent audit of financial statements and any other correspondence related to audit findings or recommendations. Such audit shall be performed in accordance with generally accepted audit standards and shall be performed by a Certified Public Accountant, licensed by the State of Florida.
- B. Submit operating financial statements consisting of costs and expenditures with relation to implementing the Agreement at the end of the Agreement period,
- C. Maintain such books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly account for all funds of any nature.
- D. Ensure that all records identified herein which relate to funding provided by the City of Gainesville be available at all times for inspection, review or audit by personnel duly

authorized by the City.

E. The Corporation shall conform to the reporting requirements outlined in *Attachment A*.

F. Corporation acknowledges and agrees to abide by Florida's public records law, as required

G. The Corporation shall retain all books, records and other documents relative to this Agreement for three (3) years after final payment. Any persons duly authorized by the City shall have the right to examine any of such materials during such three-year period.

SECTION 7. INDEPENDENT CONTRACTOR AND INDEMNIFICATION: The Corporation shall act as an independent contractor in providing the services identified herein and not as an employee, agent, partner or joint venturer of the City for all aspects associated with or covered by this Agreement. The Corporation is responsible for the means, method, technique, sequence and procedure utilized in the performance of this Agreement. The Corporation shall be liable and agrees to be liable for and shall indemnify, defend and hold harmless the City, its employees, agents or officers from all claims, suits, judgments or damages arising from the performance of the services of the Corporation, its subcontracts and agents

SECTION 8. MONITORING: The Corporation shall allow the City's official representative to attend all meetings of the Corporation's Board of Directors

SECTION 9. ASSIGNMENT: The Corporation shall not assign, convey, pledge or otherwise dispose of any interest in this Agreement or funds provided by the City, except as to the City, with written consent, and shall not transfer any interest in the same, except as to the City with written consent.

SECTION 10. TERMINATION WITH OR WITHOUT CAUSE: The Agreement shall continue and remain in full force and effect as to all of its terms, conditions and provisions, as set forth herein, until and unless either party shall give written notice to the other party of its desire to terminate this Agreement, with or without cause, on a specified time and date thereafter. Such written notice to terminate this Agreement shall be given no less than thirty (30) days prior to the date this Agreement shall be so terminated or with twenty-four (24) hours notice in the event funds become unavailable to the City for any reason whatsoever. The City shall be the sole and final

authority as to the availability of funds. In the event of such termination, the Corporation shall be paid by the City for all services actually, timely and faithfully rendered up to receipt of the notice of termination with proper documentation to the City, and will only be reimbursed thereafter for services authorized specifically in writing by the City.

SECTION 11. NOTICES: Except as otherwise provided herein, any notice, acceptance, request or approval from either party to the other party shall be in writing and sent by certified 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 Corporation's representative are as follows:

City: Economic Development Director
City of Gainesville
PO Box 490
Gainesville, FL 32602-0490

Corporation: East Gainesville Development Corporation, Inc.
c/o BCN Associates, Inc.
408 W. University Avenue, Sixth Floor
Gainesville, FL 32601

SECTION 12. LAWS AND REGULATIONS: The Corporation shall comply with all applicable laws, ordinances, regulations and building code requirements. If the Corporation does not comply with all applicable federal, state and local laws, ordinances, code rules and regulations, the Corporation remains liable for any violation and all subsequent damages or fines.

SECTION 13. INSURANCE: If the Corporation carries commercial insurance of any type, then a copy of said insurance shall be provided to the City for its records.

SECTION 14. COLLUSION: By signing this Agreement, the Corporation declares that this Agreement is made without any previous understanding, agreement, or connections with any persons, contractors or corporations and that this Agreement is fair and made in good faith without any outside control, collusion or fraud. By signing this Agreement, the Corporation declares that no City Commissioner, other City officer, or City employee, directly or indirectly owns more than five (5) percent of the total assets or capital stock of the Corporation, nor will directly or indirectly benefit by more than five (5) percent from the profits or benefits of this Agreement.

SECTION 15. CONFLICT OF INTEREST: The Corporation warrants that neither it nor any of its employees have any financial or personal interest that conflicts with the execution of this Agreement. The Corporation shall notify the City of any conflict of interest due to any other clients, contracts or property interests.

SECTION 16. THIRD PARTY BENEFICIARIES: This Agreement does not create any relationship with or any rights in favor of any third party.

SECTION 17. NON WAIVER: The failure of any party to exercise any right in this Agreement will not waive such right in the event of any further default or non compliance.

SECTION 18. GOVERNING LAW AND VENUE: This Agreement shall be governed in accordance with the laws of the State of Florida. Venue is in Alachua County, Florida.

SECTION 19. SEVERABILITY: If any provision of this Agreement is declared void by a court of law, all other provisions will remain in full force and effect.

SECTION 20. AMENDMENTS: This Agreement may only be amended by mutual written agreement of the parties hereto.

SECTION 21. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

CITY OF GAINESVILLE

Russ Blackburn, City Manager

Witness:

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM AND LEGALITY

City Attorney's Office

**EAST GAINESVILLE DEVELOPMENT
CORPORATION, INC.**

President

Witness:

By: _____

Print: _____

Title: _____

Attachment A

Phase I: Enrollment - \$7000

An invoice for the first phase of the program shall be submitted by <Date?> in the amount of \$7000. This amount is remuneration for enrolling 11 prospective entrepreneurs at a cost of \$625/person plus a lump \$125 for miscellaneous materials. If less than 11 students enroll, then amount paid shall be \$625/person plus a lump \$125 for miscellaneous materials.

The following shall be submitted with the invoice:

- Application forms completed by selected participants
- Enrollment sheet listing program participants

Phase II: Completion of Modules - \$18000

An invoice for the second phase of the program shall be submitted by <Date?> in the amount of \$18,000. This amount is remuneration for 9 students completing all modules of the program at \$2000/person. If less than 9 students complete the program, then amount paid shall be \$2000/person

The following shall be submitted with the invoice:

- Graduation certificates for students that have completed all modules of the program.

Phase III: Mini-Grants

There is an expectation that a portion of the funds recieved from the City of Gainesville will be used for mini-grants which will be distributed to students who complete the top business plans as a result of the program.

Economic Development staff will serve on the evaluation committee that ranks businesses plans for grant consideration. A final report on class attendance and distribution of mini-grants, including business plan evaluation sheets shall be submitted by <Date?>

Phase IV: Ongoing Technical Assistance

There is an expectation that ongoing technical assistance and business support will be made available to graduating participants.