

**FIRST AMENDMENT TO AGREEMENT BETWEEN  
CITY OF FAYETTEVILLE, NORTH CAROLINA  
AND  
CENTER FOR ECONOMIC EMPOWERMENT AND DEVELOPMENT**

**THIS FIRST AMENDMENT TO AGREEMENT** (hereinafter "Amendment") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF FAYETTEVILLE, a municipal corporation duly organized and existing under the laws of the State of North Carolina (hereinafter referred to as "CITY"), and CENTER FOR ECONOMIC EMPOWERMENT AND DEVELOPMENT (hereinafter referred to as "RECIPIENT").

**WITNESSETH:**

WHEREAS, the CITY and RECIPIENT entered into an Agreement (herein referred to as "Agreement") on the 30th day of June, 2017, for the CITY to pay RECIPIENT a certain sum of money to aid in the design and construction of a training station kitchen incubator in the City of Fayetteville, North Carolina, to aid in the economic development services as stated in Appendix A attached and incorporated herein; and

WHEREAS, the parties desire to amend the Agreement by extending the length of the term, services to be performed, required reports and deliverables, payment, and audit terms of the Agreement.

NOW, THEREFORE, in consideration of the above recitals and the terms of the Agreement, the parties agree that the following sections will be amended as follows:

1. **TERM OF AGREEMENT:** The term of this Agreement shall be from June 30, 2017, to July 31, 2019, unless sooner terminated as provided for herein.

4. **REPORTS AND DELIVERABLES:** The RECIPIENT shall no less frequently than quarterly provide reports to the Economic & Community Development Department, c/o Cynthia Blot, City of Fayetteville, PO Drawer D, Fayetteville, NC 28302, who shall be primarily responsible for determining RECIPIENT's compliance with this Agreement, on the following activities with the level of detail determined by CITY taking into consideration confidentiality and related professional standards:

- A. Accomplishments, progress and actions taken toward meeting the goals sought or services to be performed as indicated in Section 3 and Appendix A (revised) of this Agreement.
- B. Reports are due by the 15th of the month following the end of each quarter and shall be mailed to the Economic & Community Development Department, c/o Cynthia Blot, City of Fayetteville, PO Drawer D, Fayetteville, NC 28302. Next report is due July 15, 2018.

5. **PAYMENT:** The CITY will provide financial support to the RECIPIENT not to exceed \$350,000.00 to be paid in three equal payments during the CITY's 2018-2019 fiscal year per the budget as follows:

- A. Initial payment of \$116,670.00 will be awarded to RECIPIENT after providing to CITY a copy of lender's letter of commitment, and all other committed funding sources to support the construction of the project totaling approximately \$1,200,000.00 and RECIPIENT is in possession of final approval from the City of Fayetteville's Development Services Department to proceed with construction and has obtained all required permits to begin construction, including, but not limited to, all construction, NCDOT, NCDOQ and CSX permits.
- B. Second Payment of \$116,670.00 upon the completion of 50 percent of construction.
- C. Final Payment of \$116,670.00 upon the issuance of Certificate of Occupancy.

The CITY's payment shall be that authorized by the City Council in the budget for the relevant period and will be paid out within thirty (30) days of receipt of proof of the successful completion of project deliverables identified in Section 5 herein from the RECIPIENT, which shall be submitted within fifteen (15) days after the above deliverables have been satisfied to the CITY's Economic & Community Development Department. Payment shall be conditioned upon the satisfactory submission of all required reports and deliverables and addressed to:

Center for Economic Empowerment and Development  
c/o Suzy Hrabovsky  
230 Hay Street  
Fayetteville, NC 28301

8. **AUDIT:** The RECIPIENT agrees that it will provide the CITY with a certified audit, a copy of the management letter, and management's response to the auditor recommendations, by independent auditors for the fiscal year periods ending July 31, 2019 and 2020. The audit will specifically state whether or not the CITY's funds were used exclusively for those purposes stated in Section 2 and Appendix A (revised). The audit will specifically describe any exceptions and the amount of exception. It is understood that such audits may not be available upon the commencement of this Agreement. The audit is due to the CITY one hundred and twenty (120) days after the RECIPIENT year-end.

- A. If at any time the CITY determines the RECIPIENT is not in compliance with either this Agreement or N.C.G.S. Chapter 159, or any other federal, state, or local law, policy, or regulation affecting the expenditure of public funds, the RECIPIENT shall be notified in writing as to the nature of the deficiency. It is the responsibility of the RECIPIENT at its expense to rectify and/or reconcile any material deficiencies identified by audit or monthly review of financial activity by the CITY. Failure to cure a

material deficiency in compliance with N.C.G.S. Chapter 159 or the terms of this Agreement within thirty (30) days of receipt of a written notice from the CITY shall constitute a default and may be cause for termination of this Agreement.

- B. At any time the CITY deems it necessary or appropriate, the RECIPIENT agrees that an internal audit by the CITY may be made of the RECIPIENT's books or records to assess the current financial condition of the RECIPIENT and compliance with this Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment by their duly authorized representatives effective the day and year first above written.

**CITY OF FAYETTEVILLE**

(SEAL)

By: \_\_\_\_\_  
DOUGLAS J. HEWETT, City Manager

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
PAMELA J. MEGILL, City Clerk

**CENTER FOR ECONOMIC EMPOWERMENT  
AND DEVELOPMENT**

By: \_\_\_\_\_  
SUZY HRABOVSKY, CEO

ATTEST:

\_\_\_\_\_  
Secretary

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
JAY TOLAND, Chief Financial Officer