

## OPERATIONAL AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the CITYOF LAKE WALES, a Florida municipal corporation, hereinafter referred to as "CITY", and FLORIDA DEVELOPMENT CORP, INC., a Florida corporation, hereinafter referred to as "FDC".

WITNESSETH:

WHEREAS, FDC has expressed a willingness to participate in the creation of a business incubator called BizLINC to be developed at 225 Lincoln Avenue in the City of Lake Wales; and

WHEREAS, the CITY finds and determines that a public purpose would be met by providing public funds to assist in facilitating the creation and operation of the BizLINC business incubator facility by providing financial assistance to FDC; and

WHEREAS, the parties intend that BizLINC will occupy an existing constructed single-story 3,570 square foot "technology-innovation hub" facility that will combine co-working space, business units, and conference rooms; and

WHEREAS, BizLINC will provide its services and space on an equal opportunity basis and pledges to not discriminate against any participants, whether individuals or entities, based on race, color, religion, sex, national origin, age, disability or genetic information.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, which will accrue to the parties hereto, the parties agree as follows:

1 . GRANT. In consideration of the services to be provided by FDC, the CITY agrees, subject to the Termination provisions of paragraph 2, hereof, to appropriate \$500,000.00 for the first year of operation and \$400,000 for the second year of operation to provide for operating costs and salaries for full-time staff during initial program stabilization.

a. There is a third-year funding option whereby the CITY agrees to providing \$300,000 for the third-year of operation contingent upon BizLINC meeting the two-year deliverables shown in the attached Deliverables and Results spread sheet.

b. The commitments for this project are as follows:

i. The Small Business Incubator will provide facilities for a combination of services from co-working, business units, and training classrooms, as well as additional services deemed necessary to serve the local Lake Wales entrepreneurial population.

ii. Of the funding approved pursuant to the terms of this Agreement, \$900,000.00 over two years (\$500,000 year one, \$400,000 year two) will be dedicated to this project with an additional amount of \$300,000 to be provided to FDC on the condition that the two-year deliverables are met or accomplished. The funding will be dispensed on an annual basis.

iii. FDC services and facility will be operated a minimum of 40 hours per week.

iv. A combination of full/part-time/intern staff will be recruited and hired.

v. FDC will recruit and mentor start-up/innovation companies to utilize offices/work spaces in the incubator facility.

vi. FDC will recruit a group of start-up/innovation companies each fiscal year to participate in a starter studio program (Lunch and Learns; Business Training Seminars; Technical Assistance, Mentor Connection) sponsored by FDC.

vii. FDC will provide quarterly written reports to the CRA detailing the use of program funds, provision of deliverables, and related accomplishments.

2. TERMINATION. In the event FDC fails to provide the services described herein, the CITY may terminate this Agreement upon providing One hundred twenty (120) days' notice and an opportunity for the FDC to cure said default. In the event FDC fails to cure said default within said One hundred twenty (120) day time period, the CITY may take such action as may be authorized by law to seek reimbursement for the grant, or any portion thereof, provided for herein.

3. REPORTING REQUIREMENTS. FDC shall present quarterly reports to the CITY and shall maintain books and records in a form that may be reviewed and audited by the CITY in order that the CITY may ensure that the activities and services to be provided as described in this Agreement have been performed.

4. INDEMNIFICATION: FDC hereby agrees that it shall indemnify and hold harmless the CITY and its elected or appointed officials, employees or agents, from any and against all liability for damages, claims, losses, expenses, including attorney's fees, related to proceedings and causes of action of every kind and nature arising out of or in any way connected with the actions of FDC, its directors and officers, or agents, in connection with or related to its performance under this Agreement. FDC agrees that it shall satisfy, pay and discharge any and all judgments that may be entered against the CITY in any such action or proceeding for which FDC has agreed to save the CITY harmless.

5. INDEPENDENT CONTRACTOR: FDC shall perform the terms and conditions of this Agreement as an independent contractor, and nothing contained herein shall be construed to be inconsistent with this relationship or status.

6. NOTICE. Notice under this Agreement shall be given to the CRA by mailing written notice (postage prepaid) to the City Manager, Post Office Box 1320, Lake Wales, FL

33859-1320; and notice shall be given to FDC by mailing written notice (postage prepaid) to FDC at 225 Lincoln Avenue, Lake Wales, FL 33853.

7. AMENDMENTS OR MODIFICATIONS. Any alterations, amendments, deletions or waivers of the provisions of this Agreement shall be valid only when reduced to writing, signed and executed by both parties with the same formality and equal dignity herewith.

8. PUBLIC RECORDS. FDC agrees to comply with the provisions of Chapter 119, Florida Statutes, and to make all of its records open and available to the public for public inspection to the extent of providing the services described in this Agreement; specifically, any and all records reflecting compliance with the requirements of this Agreement. The other activities of FDC not covered by this Agreement shall not be subject to the Public Records law.

9. GOVERNING LAW. The law of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related thereto. Venue for any action arising out of or for interpretation of this Agreement shall be deemed to be in Polk County, Florida. In the event of any litigation arising in any way related to this Agreement the parties shall each bear their own respective costs and attorney's fees.

10. SEVERABILITY. If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

11. ATTACHMENTS. Any and all attachments and exhibits hereto are incorporated herein as a material and relevant part of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day and year first above written.

ATTEST:

CITY OF LAKE WALES

\_\_\_\_\_  
Jennifer Nanek, CMC, City Clerk

By: \_\_\_\_\_  
Jack Hilligoss, Mayor

Signed Sealed and delivered in  
the presence of:

FLORIDA DEVELOPMENT CORP, INC.

\_\_\_\_\_  
(Witness)

By: \_\_\_\_\_  
Frank Cornier, President

\_\_\_\_\_  
(Witness)