JOBS GROWTH INCENTIVE ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is effective as of the 2nd day of December, 2015 by and between the CITY OF DEBARY, a municipal corporation, whose address is 16 Colomba Road, DeBary, Florida 32713 (hereinafter referred to as the "CITY") and East Cape Skiffs, a corporation authorized to do business in the State of Florida, whose address is 903 S US Hwy. 17-92, DeBary, FL 32713 (hereinafter referred to as the "COMPANY").

W I T N E S S E T H:

WHEREAS, it is the policy of the CITY to aggressively stimulate economic growth in the City of DeBary by, among other things, either attracting new industries and businesses to the City of DeBary or by encouraging the expansion of existing industries and businesses within the City of DeBary; and

WHEREAS, the creation of new employment opportunities for residents of the City of DeBary and the increased tax revenue resulting from such industries or business expansion or relocation within the City of DeBary is beneficial to the local economy; and

WHEREAS, the Mayor and City Council members have determined that offering a Jobs Growth Incentive Program encourages either existing industries and business to expand or new industries and business to enter the City of DeBary and thereby create diverse positive employment opportunities for the residents of the City of DeBary; and

WHEREAS, the City of DeBary, through its City Council members, has enacted a Jobs Growth Incentive Ordinance 13-98, and has the fiscal capacity to conduct and accomplish the programs relating thereto; and

WHEREAS, the COMPANY will locate its industry or business in the City of DeBary and thereby create certain full-time employment opportunities at certain average salary level and to make certain capital investments all in accordance with the CITY'S Job Growth Incentive Ordinance; and

WHEREAS, the COMPANY and the City desire to enter into this Agreement for the purpose of giving additional assurances to the CITY that certain expenditures by the CITY will produce a positive economic effect in the City of DeBary as a result of the COMPANY's activities in

the City of DeBary; and

WHEREAS, the COMPANY is proposing to enter into a lease agreement of a facility at 903 S US Hwy. 17-92 in the Debary Industrial Park, which represents a significant capital investment; and

WHEREAS, the new jobs created and capital investment made by the COMPANY will make the project economically viable in terms of economic development; and

WHEREAS, the COMPANY is eligible to receive a Jobs Growth Incentive Grant from the City; and

WHEREAS, the CITY has determined that in order to enhance and preserve the health, education and welfare of the citizens of the CITY it is necessary, proper and desirable to enter into this Agreement with the COMPANY in order to enhance the economic development of the City of DeBary: and

WHEREAS, the CITY finds and declares that it is in the public's best interest and serves a public purpose to award a Jobs Growth Incentive Grant to COMPANY pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

SECTION 1: Recitals The above recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

SECTION 2: Definitions

(A) "New Permanent Jobs" is as defined in Ordinance No. 13-98 as amended.

(B) "Project" means the lease of the building space at 903 S US Hwy. 17-92 within the CITY of DeBary.

SECTION 3: Representation of the COMPANY The Company hereby represents and warrants to the CITY the following:

(A) The COMPANY is duly organized and validly existing under the laws of the State of Florida and is authorized to do business in the State of Florida.

(B) The COMPANY has the corporate power, authority and legal right to execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by the COMPANY has been duly authorized by all necessary corporate and shareholder action.

(C) The COMPANY's Project Managers shall be Mr. Kevin Fenn and/or Mr. Marc Page, or their designee.

SECTION 4: Covenants of the COMPANY The COMPANY hereby covenants with the CITY to do the following:

(A) The COMPANY shall locate its business operations to the City of DeBary and agrees to lease a building in the City of DeBary as more specifically set forth below.

(B) In consideration of approval of its application for funds under the provisions of this Agreement by the CITY, the COMPANY shall locate at least twenty (20) employees, average salary of $37,000.00 from outside the CITY to fulltime employment position with the COMPANY in the CITY and the Company anticipates it will add up to eight (8) new employees, average salary of $38,000.00 during the first two (2) years of continued operations. Residents of the City of DeBary will have hiring preference if the applicant is qualified.

(C) The COMPANY agrees that new permanent jobs created will be of duration of a minimum of two (2) years with said new jobs being retained during that period of time.

(D) The COMPANY agrees that the project will result in the expenditure of at least $400,000.00 of capital investment relating directly to the Project.

(E) When the jobs have been relocated and capital investments made, the COMPANY shall cause notice to be given to the CITY and will make the documentation available for review and inspection by the CITY.

SECTION 5: Covenants of the City

(A) The City agrees to provide the COMPANY $350.00 for each employee relocated to the City of DeBary or new employee hired upon inception, this equates to $7,000.00 for the first twenty (20) employees. Additionally the City agrees to provide the COMPANY $400.00 for up to a maximum of eight (8) additional employees hired within the first two (2) years of operation, this equates to a maximum of $3,200.00 for

the eight (8) additional employees hired.

(B) The incentive will provide funds to assist the COMPANY in the payment of relocation costs, infrastructure cost, building improvements and other costs associated with the relocation of COMPANY to the City of DeBary. The total incentive will not exceed $10,200.00. The above incentive will be paid on December 1st each calendar year. Payments to the COMPANY shall be made upon proof of the hiring of the new positions for the facility at 903 S US Hwy. 17-92 and establishment and verification of relocated or new jobs created in the City during the previous twelve (12) months. Approval by the DeBary City Council is required.

(C) **SECTION 6: Term** This Agreement shall become effective upon execution by the CITY and the COMPANY and shall remain in effect through close out of the Agreement pursuant to and consistent with its terms.

SECTION 7: Reports The COMPANY shall provide the CITY, with annual verifications regarding the number of relocated and created jobs that have been provided by the project according to Section 4.

SECTION 8: Force Majeure In the event any party hereunder fails to satisfy a requirement imposed in a timely manner, due to a hurricane, tornado, or other Act of God of force majeure, then said party shall not be in default herein; provided, however, that performance shall recommence upon such event ceasing its effect.

SECTION 9; Binding Effect This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors in interest, transferees and assigns of the parties.

SECTION 10: Assignment This Agreement shall not be assigned by either party without the prior written approval of the other.

SECTION 11: Public Records The COMPANY shall allow public access to all documents, papers, letters or other material which have been made or received by the COMPANY in conjunction with this Agreement.

SECTION 12: Records and Audits

(A) The Company shall maintain in its place of business all books, documents, papers and

other evidence pertaining to work performed under this Agreement. Such records shall be and remain available at the COMPANY's place of business at all reasonable times during the term of this Agreement and for five (5) years after Agreement closure.

(B) All required records shall be maintained until an audit has been completed and all questions arising it are resolved two (2) years after closure of the Agreement. The COMPANY shall provide copies of the Florida UCT 6 forms upon request for verification of employment.

SECTION 13: Notices

(A) Whenever either party desires to give notice unto the other, notice may be sent to:

CITY

Dan Parrott, City Manager

16 Columba Road

DeBary, FL 32713

COMPANY

Kevin Fenn, Principal & Marc Page, Principal

East Cape Skiffs

903 S US Hwy. 17-92

DeBary, FL 32713

(B) Either of the parties may change, by written notice as provided herein, the addresses or person for receipt of notices or invoices. All notices shall be effective upon receipt.

SECTION 14: Indemnity and Insurance

(A) Each party to the Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the offices, employees and agents thereof.

(B) To the extent allowed by law, each party to this Agreement shall indemnify, save and hold harmless the other party and all of its respective officers, agents and employees from and

against all losses and all claims, demands, payments, suits, actions, recoveries and judgments of every nature and description whatsoever, including claims for property damage and claims for injury to the death of persons brought or recovered against the other party to this Agreement by reason of any act or omission of the responsible party, its respective officers, agents, subcontractors or employees, in the execution of the work relating to this Agreement.

(C) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party and remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of sovereign immunity of the CITY beyond the waiver provided for Section 768.28, Florida Statutes.

(D) The COMPANY shall provide necessary workers compensation coverage and unemployment compensation for its employees.

SECTION 15: Conflicts of Interest

(A) The COMPANY agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the CITY or which would violate or cause others to violate the provisions of part III, Chapter 112, Florida Statutes, relating to ethics in government.

(B) The COMPANY hereby certifies that no officer, agent or other employee of the CITY has any material interest (as defined in Section 112.312, Florida Statue) either directly, in the business of the COMPANY to be conducted here, and that no such person shall have any such interest at any time during the term of this Agreement.

(C) Pursuant to Section 216.347, Florida Statutes, the COMPANY hereby agrees that monies received from the CITY pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

SECTION 16: Equal Opportunity Employment

(A) The COMPANY agrees that it will not discriminate against any contractor, employee or applicant of race, color, religion, sex, age or natural origin and will insure that applicants and employees are treated during employment without regard to race, color, religion, sex, age or natural origin. This provision shall include, but not be limited to the following: retention;

award of contracts; employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(B) The COMPANY agrees that it will comport all of its activities with the provisions of Chapter 760, Florida Statutes.

SECTION 17: Compliance with laws and regulations In performing under this Agreement, the parties shall abide by all laws, statues, ordinances, rules and regulations pertaining to, or regulating the performance set forth herein, including those now in effect and hereafter adopted. Any material violation of said laws, statutes, ordinances, rule or regulations shall constitute a material breach of this Agreement, and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

SECTION 18: Employees/COMPANY Status

(A) Persons employed or retained by the COMPANY in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers compensation, unemployment compensation, civil services or other employee rights or privileges granted to the CITY's officers and employees either by operation of law or by the CITY.

(B) The Company assumes total responsibility for salaries, employment benefits, contractual rights and benefits, contract payments and federal, State and local employment taxes, if any, attributable to the COMPANY personnel or contractors and agrees to indemnify and hold the CITY harmless from any responsibility for same.

(C) In performing this Agreement, planning, developing, constructing, equipping and operating the Project or carrying out any of the activities to be carried out by the COMPANY, the COMPANY will be acting independently, in the capacity of an independent entity, and not as a joint venturer, partner, associate, employee, agent or representative of the CITY.

SECTION 19: No Third-Party Beneficiaries This Agreement is made for the sole benefit of the parties hereto and their respective successors and assigns, including any successor in interest to the COMPANY's interest in the Project, and is not intended to and shall not benefit

any third party. No third party shall have any rights hereunder or as a result of this Agreement or any right to enforce any provisions of this Agreement.

SECTION 20: Contingents Fees/Conflicting Employment

(A) The COMPANY covenants that it has employed and retained only bona fide employees working for the COMPANY and attorneys and consultants, to solicit or secure this Agreement. The CITY warrants that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working for the CITY, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award of making this Agreement.

(B) The COMPANY agrees that at this time of execution of this Agreement it has no retainer or employment agreement, oral or written, with any third party relating to any matters, which adversely affect any interest or position of the CITY. The COMPANY shall not accept during the terms of this Agreement any retainer or employment from a third party whose interest appear to be conflicting or inconsistent with those of the CITY.

SECTION 21: Governing Law/ Attorney's Fees This Agreement shall be construed and interpreted according to the laws of the State of Florida. In the event of litigation between the parties arising from or pertaining to this Agreement, the prevailing party shall be entitled to recover from the other, reasonable trial and appellate attorney's fees and costs.

SECTION 22: Construction of Agreement This Agreement shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties, CITY and COMPANY, have contributed substantially and materially to the preparation hereof.

SECTION 23: Constitutional and Statutory Authority of the CITY The terms and conditions of this Agreement placed upon the City are applicable only to the extent they are within and consistent with the constitutional and statutory limitations on the authority of the CITY. Specifically, the parties acknowledge that the CITY is without authority to grant or pledge a security interest in any of the CITY's revenue sources or property.

SECTION 24: Events of Default/Remedies

(A) For purpose of this agreement event of default shall mean any of the following:

(1) The COMPANY shall misapply or cause the misapplication of CITY funds or credits received pursuant to this Agreement.

(2) Any representation or warranty made by the COMPANY herein or in any statement, invoices or certificate furnished to the CITY in connection with the performance of the Agreement proves to be untrue in a material respect as of the date of issuance or making thereof and shall not be corrected or brought into compliance within thirty (30) days after written notice thereof to COMPANY by CITY.

(3) The COMPANY shall materially breach any covenant in this Agreement and such breach shall not be corrected or cured within thirty (30) days after written notice thereof to the COMPANY by the CITY; provided, however, that the CITY may declare a lesser cure period in the event that it finds, in its sole and absolute discretion, that such lesser period is necessary to protect the public health, safety, or welfare.

(4) The COMPANY fails to provide to the CITY the written verification, satisfactory to the CITY, of its performance obligations herein.

(5) The COMPANY fails to relocate and/ or create the minimum number of permanent new jobs and retain such jobs in the CITY of DeBary within the time limit prescribed in this Agreement.

(B) If within forty-five (45) days after receiving written notice from the CITY that an Event of Default has occurred, the COMPANY shall: (i) refund to the CITY that amount of funds equal to (per job award in dollars) per new job relocated, created, retained and maintained pursuant to the terms of this Agreement; or (ii) refund such disbursed refund which the CITY determines have been misapplied under terms of this Agreement.

SECTION 25: Counterparts This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

SECTION 26: Heading All sections and descriptive headings in this Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

SECTION 27: Time Time is of the essence of this Agreement.

SECTION 28: Severability If any provision, term or clause of this Agreement is determined to be invalid or unenforceable by a Court of competent jurisdiction, said determination shall not, in any way, effect the obligation of the parties as provided for or referred to herein and, to that end, the provisions of this Agreement shall be deemed severable. However, such invalidity or unenforceability shall preclude the continuing effect of this Agreement if a failure of consideration were to occur.

SECTION 29: Entire Agreement

(A) This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and may not be modified or amended except by written instrument equal in dignity herein and executed by the parties to be bound thereby.

(B) No waiver or consent to any departure from any term, condition of provision of this Agreement shall be effective or binding upon any party hereto unless waiver or consent is in writing, signed by an authorized officer of the party giving the same and delivered to the other party.

(C) The COMPANY agrees that no representation have been made by the CITY in order to induce the COMPANY to enter into this Agreement other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, The parties hereto have made and executed this Agreement for the purpose stated herein.

ATTEST: CITY OF DEBARY, FLORIDA

_____ BY: _____

Dan Parrott, acting City Clerk Clint Johnson, Mayor

For the use and reliance of the City of DeBary. Approved as to form and

As authorized by the Mayor and City Council at their _____, 2015

legal sufficiency.

Regular Meeting.

East Cape Skiffs

BY: _____

Kevin Fenn, Principal

_____

Marc Page, Principal