

RESOLUTION NO. 2008- 82

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN EQUESTRIAN COMPLEX OPERATIONS AND MAINTENANCE AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND THE ST. JOHNS COUNTY HORSE COUNCIL, INCORPORATED, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE ON BEHALF OF ST. JOHNS COUNTY, FLORIDA THE EQUESTRIAN COMPLEX OPERATIONS AND MAINTENANCE AGREEMENT

WHEREAS, St. Johns County, Florida (County) currently owns, operates, and maintains real property located at 8200 Smith Road, Hastings, Florida, more definitely described on an attached and incorporated map, and an attached and incorporated legal description; and

WHEREAS, the Board of County Commissioners of St. Johns County Florida (Board) has determined that the real property located at 8200 Smith Road, Hastings, Florida should be used as an Equestrian Complex; and

WHEREAS, the St. Johns County Horse Council, Inc. (SJCHC) has expressed an interest to manage and operate the Equestrian Complex, for the purpose of facilitating equestrian-related events, activities, and/or shows, and other appropriate events and activities; and

WHEREAS, an Equestrian Complex Operations and Management Agreement has been developed to set forth the obligations of both the County, and SJCHC; and

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements of the Equestrian Complex Operations and Management Agreement (attached hereto, and incorporated as an Exhibit); and

WHEREAS, the County has determined that approving the Equestrian Complex Operations and Management Agreement will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the Equestrian Complex Operations and Maintenance Agreement between St Johns County, Florida and the St. Johns County Horse Council, Incorporated, and authorizes the County Administrator, or designee, to execute on behalf of St. Johns County, the Equestrian Complex Operations and Management Agreement.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 18 day of March, 2008.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest:

Pam Halterman
Deputy Clerk

By:

Thomas G. Manuel
Thomas G. Manuel, Chair

RENDITION DATE 3/20/08



**ST. JOHNS COUNTY EQUESTRIAN COMPLEX
OPERATIONS AND MANAGEMENT AGREEMENT**

THIS OPERATIONS AND MANAGEMENT AGREEMENT (“Agreement”) dated this _____ day of _____, **2008**, between **St. Johns County, Florida (“County”)**, political subdivision of the State of Florida, located at 4020 Lewis Speedway, St. Augustine, Florida 32084, and the **St. Johns County Horse Council, Inc. (“SJCHC”)**, a Florida not-for-profit corporation, located at **P.O. Box 538, Hastings, Florida, 32145-0538**.

RECITALS

WHEREAS, the **County** currently owns, operates, and maintains real property located at 8200 Smith Road, Hastings, Florida, more definitely described on a map, attached hereto, and incorporated as Exhibit A, and a legal description, attached hereto, and incorporated as Exhibit B; and

WHEREAS, the **Board of County Commissioners of St. Johns County, Florida (“Board”)** has determined that the real property located at 8200 Smith Road, Hastings, Florida should be used as an **Equestrian Complex**; and

WHEREAS, for purposes of this **Agreement** the real property located at 8200 Smith Road, Hastings, Florida, should hereafter be referred to as the **Equestrian Complex**; and

WHEREAS, it is expected that the **SJCHC** will be one of the primary users of the **Equestrian Complex**; and

WHEREAS, the **SJCHC** has expressed an interest to manage and operate the **Equestrian Complex**, for the purpose of facilitating equestrian-related events, activities, and/or shows and other appropriate events and activities; and

WHEREAS, the **County** has determined that entering into this **Agreement** will serve the collective interests of the residents of the **County**.

NOW THEREFORE, the parties hereto, for and in consideration of the mutual covenants and conditions hereinafter expressed, do hereby agree as follows:

Section 1. Effect of Recitals. The above Recitals are incorporated into the body of this **Agreement**, and said Recitals are adopted as Findings of Fact.

Section 2. Duration of Agreement. The duration of this **Agreement** runs from _____, 2008 through, and including **September 30, 2028**. The **SJCHC** may request a one-year extension to this **Agreement** by submitting a written request to the **County Administrator**, **within 30 days of its anniversary**. Should the **Board** wish to extend this **Agreement**, the **Board** may do so, by approving an extension to this **Agreement**.

Section 3. Severability. If any word, phrase, sentence, part, subsection, section, or other portion of this **Agreement**, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the prescribed application thereof, shall be severable, and the remaining portions of this **Agreement**, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.

Section 4. Governing Law and Venue. This **Agreement** shall be construed according to the laws of the State of Florida. Venue for any State administrative and/or legal action arising under this **Agreement** shall be in St. Johns County, Florida. Venue for any Federal administrative and/or legal action arising under this **Agreement** shall be in the closest district office for a Federal administrative action, or the United States District Court, Middle District of Florida, for a Federal legal action.

Section 5. Procedure for Achieving Assignment; Effect of Not Following Procedure. In light of the scope and rationale for this **Agreement**, neither the **County**, nor the **SJCHC**, may assign, transfer, and/or sell any of the rights noted in this **Agreement** without the express written approval of the other party. Should either the **County**, or the **SJCHC** assign, transfer, or sell any of the rights noted in this **Agreement** without such prior express approval of the other party, then such action on the part of either the **County**, or the **SJCHC**, may result in the termination of this **Agreement** at the discretion of the non-breaching/non-offending party. Termination shall occur upon written notification to the breaching/offending party in writing within 30 days of discovery of the breach of the **Agreement**.

Section 6. Amendments to this Agreement. Both the **County** and the **SJCHC** acknowledge that this **Agreement** constitutes the complete agreement and understanding of the parties.

Further, both the **County** and **SJCHC** acknowledge that any change, amendment, modification, revision, or extension of this **Agreement** (other than termination as noted elsewhere in this **Agreement**) shall be in writing, and shall be executed by duly authorized representatives of both the **County**, and **SJCHC**.

Section 7. Force Majeure. Neither party shall be held in non-compliance with the terms, conditions, provisions, and requirements of this **Agreement**, nor suffer any enforcement or penalty relating thereto (including termination, cancellation, or revocation of this **Agreement**) where such non-compliance or alleged default occurred and/or was caused by a strike, riot, war, earthquake, flood, tsunami, severe rainstorm, hurricane, or other act of nature, or other event that is reasonably beyond either party's ability to participate and/or control.

Section 8. Grant of Operations and Management. The **County** hereby grants to the **SJCHC**, and the **SJCHC** hereby accepts from the **County**, the joint right and duty to manage and operate the **Equestrian Complex**. The **SJCHC** shall operate and maintain the **Equestrian Complex** in the manner described, detailed, and noted in this **Agreement**. **It is understood that the SJCHC has constructed/installed certain improvements at the Equestrian Complex, which include the following: 1) perimeter fencing ; 2) gates ; and 3) landscaping.**

It is understood that the **County** retains priority of use of the **Equestrian Complex**, in order to address, handle, and/or facilitate emergency situations. In an emergency situation, defined by the activation of the **County's** Emergency Operations Center, the **County** may displace a previously scheduled event at the **Equestrian Complex**. If the **County** unilaterally exercises its priority of use of the **Equestrian Complex** in an emergency situation, and displaces a previously scheduled **SJCHC** event, then the **County** shall reasonably attempt to find an acceptable alternate site for the previously scheduled **SJCHC** event.

Section 9. Maintenance of Equestrian Complex. For the duration of this **Agreement**, the **SJCHC** shall be jointly responsible for maintaining the **Equestrian Complex** in a clean and safe condition. All solid waste, animal waste, yard trash/waste, construction and demolition debris shall be removed and/or disposed of in receptacles approved by and provided by the **County**, or in a method that is approved by the **County**. **Such waste removal shall not exceed the standard contract of the St. Johns County Recreation and Parks Department for pick-up.**

The **SJCHC** shall not produce, and/or create hazardous waste, for the duration of this **Agreement**, unless authorized in advance, and in writing, by the **County**. **It is specifically understood that horse waste is not considered a hazardous waste. Moreover, it is specifically understood that with respect to horse waste, the SJCHC will compost and re-cycle such waste as fertilizer on site of the Equestrian Complex. As such, the SJCHC will not have the responsibility to remove horse waste from the Equestrian Complex site.**

The County stipulates that up and until the SJCHC executes the lease and assumes management of the facility, any pre-existing hazardous materials or potentially hazardous materials are not the responsibility of the SJCHC and that the County shall bear all costs associated with the removal and clean up of said hazardous or potentially hazardous materials.

To the extent that the production and/or creation of hazardous waste is approved by the **County** (as *hazardous waste* is defined by Federal or State law, rule, or regulation), or hazardous waste is introduced onto the **Equestrian Complex**, by the **SJCHC**, the **County** may elect to supervise the removal and disposal of hazardous waste, or contract with another party, in order to remove and dispose of such hazardous waste. The **SJCHC** shall be responsible for any costs, and/or expenses associated with the removal and disposal of such hazardous waste. This provision shall survive any expiration and/or termination of this **Agreement**.

At the end of the term of this **Agreement**, or at the time the **SJCHC** no longer jointly maintains the **Equestrian Complex** with the **County**, the **County** shall inspect the **Equestrian Complex**, in order to determine whether the **SJCHC** has kept the facility in a clean and **safe** condition. If the **County** determines that further clean-up by the **SJCHC** is required, then the **County** will notify the **SJCHC** of such further required clean-up, and provide the **SJCHC** with up to thirty (30) days to handle such further clean-up. Failure by the **SJCHC** to maintain the **Equestrian Complex** in a clean and safe condition may result in the **County** having to expend funds, in order to clean-up, or repair the **Equestrian Complex** after the expiration of this **Agreement**. If such a case occurs, then the **SJCHC** shall re-imburse the **County** for such clean-up and/or repairs, up to a thousand dollars (\$1,000.00).

Section 10. Permits and Licenses. To the extent that the **SJCHC** needs permits and licenses in order to manage or operate the **Equestrian Complex**, or facilitate authorized activities, and/or horse shows at the **Equestrian Complex**, then the **SJCHC** shall be responsible for obtaining and maintaining at **SJCHC's** expense, any, and all, permits, licenses, and approvals required by Federal, State, and/or **County** law rule, regulation, or ordinance. Specifically, **SJCHC** shall be required to secure, obtain, and maintain for the duration of this **Agreement**, any, and all, State permits, licenses that are required for, or associated with equestrian centers/complexes.

Section 11. Termination of Agreement. .

This **Agreement** may be terminated with cause upon ninety (90) days advance written notice to the other party of such notice of termination. Termination for cause shall be for one of the following reasons: 1) insolvency or bankruptcy of **SJCHC**; 2) failure of **SJCHC** to maintain any necessary and/or required permits and/or licenses; 3) failure of **SJCHC** to maintain any necessary and/or required insurance; 4) failure of the **County** to meet its obligations and responsibilities as noted in this **Agreement**; 5) failure of the **SJCHC** to pay its pro-rata share of the utility bill as noted in Section 13 of this **Agreement**; or 6) failure to maintain a corporate structure or permissible operating entity as required by State law. Such written notification shall indicate the exact cause(s) for termination of this **Agreement**.

This **Agreement** may be terminated without cause upon either the **County**, or the **SJCHC** giving at least three hundred sixty (360) days advance written notice to the other party of such notice of termination.

Regardless of the method of termination (with or without cause), the **SJCHC** may, at its discretion, keep, retrieve, remove any, and/or all, improvements and equipment constructed or installed by the **SJCHC**, if such removal can be accomplished without damaging the **Equestrian Complex**. The **SJCHC** may, at its discretion, also offer for sale, such improvements and equipment to the **County**. In the event the **SJCHC** decides to offer for sale its improvements and equipment to the **County**, fair market value shall be determined by mutually agreed upon appraisers/experts. The party wishing to terminate this **Agreement** shall incur the expense created by the appraisers/experts.

Consistent with other provisions of this **Agreement**, the **SJCHC** will be compensated for any services and/or expenses that are authorized under this **Agreement**, or authorized in writing by the **County Administrator**, or his/her designee. Such compensation will be for services and/or expenses that are performed and/or accrued up to the date of the notice of termination. Thereafter, the **County** will only pay for services and/or expenses that are pre-approved by the **County Administrator**, or his/her designee.

Section 12. Public Purpose. The **Board** recognizes that by entering into this **Agreement** with the **SJCHC**, a public purpose is served, and the interests of both the **County**, and the **SJCHC** are served in the following ways:

- a) the **County's** labor costs will be reduced, in that **SJCHC** volunteers will manage and operate the **Equestrian Complex**;
- b) the **County** will be able to foster a co-operative spirit with a recognized local horse association, so as to provide a means of nurturing a healthy, competitive, athletic spirit with other equestrian organizations located within the **County**, the 4-H clubs, and similar organizations;
- c) the **SJCHC** will provide a level of expertise that the **County's** Recreation and Parks Department does not currently have, in order to facilitate a safer operation of the **Equestrian Complex**;

Section 13. SJCHC Responsibilities/Obligations. Under this **Agreement**, the **SJCHC** shall have the following responsibilities/obligations:

- a) co-manage and schedule all use of the **Equestrian Complex** and such scheduling is consistent with the **County's** policies associated with access to public facilities;
- b) payment of a *privilege to manage fee*, of \$1.00 (one dollar) per year, payable to the **County**, payable no later than March 1, of each calendar year that this **Agreement** (including any Amendment and/or extension that this **Agreement**) is in force, and effect;
- c) **provide for the annual payment of electrical utilities in the amount in excess of the base line kilowatt hours established for the immediately**

- preceeding 12 months prior to the SJCHC executing this agreement, which represents the increase in electrical usage by user groups associated with the Complex's rental;**
- d) maintain insurance as noted elsewhere in this Agreement;
 - e) require all users of the **Equestrian Complex** sign a waiver of liability in favor of the **County**;
 - f) **accept responsibility** for minor maintenance and repair so long as the amount does not exceed \$100.00 per occurrence, and cleanup of the **Equestrian Complex** in the event that users do not clean up after themselves;
 - g) request in writing, and secure the approval of the **County** prior to undertaking any alterations or improvements to the **Equestrian Complex**;
 - h) prohibit the consumption of alcoholic beverages and illegal narcotic substances at the **Equestrian Complex** in accord with **County** policy;
 - i) post the public hours of use, and monthly closure schedules, including closures due to holidays and inclement weather;
 - j) manage and operate the **Equestrian Complex** in a safe and efficient manner that supports the activities of all user groups;
 - k) provide open membership, and admit into **SJCHC's** membership any St. Johns County resident who expresses a desire to join, so long as, such resident agrees to abide by, and comply with, the fees, rules, regulations, and other requirements associated with the **SJCHC**;
 - l) **agree to utilize and expend excess funds generated through events hosted at the Equestrian Complex for the betterment of the facility and the promotion of the facility as a venue in St. Johns County; and**
 - m) **Submit to the County, any fee schedule for use of the Equestrian Complex (including any fees associated with an individual event).**

Section 14. County Responsibilities/Obligations. Under this Agreement, the **County** shall have the following responsibilities/obligations:

- a) co-manage and coordinate scheduling the use of the **Equestrian Complex**;
- b) maintain liability insurance for the **Equestrian Complex**, to the extent permitted, under the **County's** self-insurance;
- c) provide for the payment of any its pro-rata share of the electric utility bill;
- d) provide on-going field and building maintenance for the following: 1) water systems; 2) building; 3) electrical system; 4) landscape, including grass cutting; **and** 5) arenas;
- e) provide necessary personnel, in order to provide for above-noted maintenance;
- f) ensure that **Equestrian Complex** adheres to, and complies with, all applicable local, State, and Federal rules and regulations, including those related to the Americans With Disabilities Act (ADA);
- g) conduct periodic performance reviews/evaluations, in order to determine level of compliance by **SJCHC**, with respect to this **Agreement**.

Section 15. Review of Records. As a condition of receiving any, or all, of the amount s/fees noted in this **Agreement**, the **SJCHC** authorizes the **County** to examine, review, inspect, and/or audit the **SJCHC's** books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this **Agreement**. It is specifically noted that the **SJCHC** is under no duty to provide access to documentation, not related to this **Agreement** that are otherwise protected by **County**, State or Federal law.

Section 16. Insurance. The **SJCHC** shall have, and maintain, for the duration of this **Agreement** (including any extensions of this **Agreement**) any, and all, insurance coverage, (including automobile liability insurance if vehicles are used, in order to provide services, and workers' compensation, and professional liability insurance) if required by State law or **County** policy, in at least the minimum amounts required by the **County's** Risk Manager. The **SJCHC** shall have the **County** named as an additional insured. Failure to maintain any, and/or all, required insurance may result in the termination of this **Agreement**, provided that the procedures outlined in section 11 are complied with.

Section 17. Indemnification. To the extent permitted by law, the **SJCHC** shall indemnify and hold harmless the **County**, its officials, agents, servants, and employees from, and against, any, and all, claims, liabilities, losses, and/or causes of action which may arise from any negligent act or omission on the part of the **SJCHC**, to the extent that such negligent act or omission is connected with the services provided pursuant to this **Agreement**.

To the extent permitted by law, the COUNTY shall indemnify and hold harmless the SJCHC, its agents, servants, and employees from , and against, any, and all, claims, liabilities, losses, and/or causes for action which may arise from any negligent act or omission on the part of the COUNTY, to the extent that such negligent act or omission is connected with the services provided pursuant to this Agreement

Section 18. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and materials, associated with this **Agreement** shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes).

Section 19. No Commitment of County Funds. While the **County** will make all reasonable efforts, in order to provide funds needed to maintain, repair, and improve the **Equestrian Complex**, the **County** makes no express commitment to provide such funds in any given **County** Fiscal Year. Moreover, it is expressly noted that the **SJCHC** cannot demand that the **County** provide such funds in any given **County** Fiscal Year.

Section 20. No Third Party Beneficiaries. Both the **County** and the **SJCHC** explicitly agree, and this **Agreement** explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

Section 21. Notices. All notices, and other correspondence to the County shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32084

With a Copy To:

County Recreation and Parks Director
2175 Mizell Road
St. Augustine, Florida 32080

All notices, and other correspondence to the **SJCHC** shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

President
St. Johns County Horse Council, Inc.
P.O. Box 538
Hastings, Florida 32145-0538

IN WITNESS WHEREOF, the parties have hereunto executed this **Agreement** on the day and year below written.

**ST. JOHNS COUNTY,
FLORIDA**

**ST. JOHNS COUNTY HORSE
COUNCIL, INC.**

BY: _____

BY: _____

DATE: _____

DATE: _____

**ATTEST: CHERYL
STRICKLAND, CLERK OF
COURTS**

WITNESS:

BY: _____
Deputy Clerk

WITNESS:
