

RESOLUTION NO. 2017- 384

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND THE CITY OF ST. AUGUSTINE TO PROVIDE FOR A DESTINATION RELEVANT VISITOR EXPERIENCE AND OPERATION OF THE A VISITORS INFORMATION CENTER AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY.

WHEREAS, a vigorous, diversified and competitive economy is essential to the long-term fiscal health of the St. Johns County, Florida (“County”), the prosperity of the County’s residents and local businesses; and

WHEREAS, the visitor industry, including tourism, meetings and hospitality are vital components of the local economy, and should be enhanced and expanded to encourage out-of-County visitors to spend one or more nights in the County through the development and management of a quality visitor experience by a variety of means; and

WHEREAS, the County and the City have a strong history of working together to attract and retain visitors to the County; and

WHEREAS, subject to the terms and conditions contained in the proposed Agreement attached hereto and incorporated herein, the County and City seek to enter into an agreement to provide for certain visitor related services, including operation of the St. Augustine Visitors Information Center (“VIC”); and

WHEREAS, the Board has determined that entering to the proposed Agreement to provide the tourist related services described therein and to operate the VIC serves a proper public purpose and is in the best interests of the citizens of the County.

NOW, THEREFORE, the County and the City of St. Augustine, in consideration of the mutual covenants and conditions hereinafter expressed, do hereby agree as follows:

Section 1. The above Recitals are incorporated into the body of this Resolution, and such Recitals are adopted as findings of fact.

Section 2. The term of the Agreement shall begin on October 1, 2017, (“Effective Date”) and continue through and until 11:59 p.m., on September 30, 2020, (“Expiration Date”).

Section 3. The Board of County Commissioners hereby approves the terms, provisions

conditions, and requirements of the Agreement described herein, to provide for certain visitor related services and operation of the VIC, and authorizes the County Administrator, or designee to execute an agreement, in substantially the same form and format, on behalf of the County.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 21 day of November, 2017.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: Henry O...
Chair

ATTEST: Hunter S. Conrad, Clerk

By: Pam Halterman
Deputy Clerk

RENDITION DATE 11/22/17



**TOURIST DEVELOPMENT AGREEMENT
BETWEEN
ST. JOHNS COUNTY, FLORIDA
AND
THE CITY OF ST. AUGUSTINE, FLORIDA**

THIS TOURIST DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between St. Johns County, Florida (“County”), a political subdivision of the State of Florida, by and through its Board of County Commissioners (“Board”), whose address is 500 San Sebastian View, St. Augustine, Florida 32084, and the City of St. Augustine, Florida (“City”), a municipal corporation organized and existing under the laws of the State of Florida, whose address is P.O. Box 210, St. Augustine, Florida 32085-210.

RECITALS:

WHEREAS, a vigorous, diversified and competitive economy is essential to the long-term fiscal health of the County, the prosperity of the County’s residents and local businesses; and

WHEREAS, tourism and tourist related activities are vital components of the local economy, and should be enhanced and expanded to provide information to visitors regarding local attractions, businesses and amenities; and

WHEREAS, the County and the City have a strong history of working together to attract tourist to the local area and to promoting tourist related industries and activities; and

WHEREAS, subject to the terms and conditions contained herein, the County and City seek to enter into an agreement to provide for certain tourist related services and operation of the St. Augustine/St. Johns County Visitors Information Center (“VIC”); and

WHEREAS, the Board has determined that entering to an agreement to provide the tourist related services described herein and to operate the VIC is a proper public purpose and is in the best interests of the citizens of the County.

NOW, THEREFORE, the County and the City, 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. Term and Extension.

A. The term of this Agreement shall begin on October 1, 2017, (“Effective Date”) and continue through and until 11:59 p.m., on September 30, 2020. (“Expiration Date”).

B. No later than thirty (30) days prior to the Expiration Date, either the County or the City may request, in writing, an extension of the Term of this Agreement for a period of up to twelve (12) months ("Extended Term"). If the written request for the Extended Term is acceptable to the other party, then such party shall provide a written approval, indicating the specific duration of the Extended Term.

Section 3. Scope of Services.

A. The VIC. The City shall:

1. Operate and maintain the VIC, daily from 8:30 a.m. until 5:30 p.m. Subject to Section 21 (entitled "Force Majeure") contained herein, the VIC will be open to visitors no less than 364 days per calendar year.
2. Provide adequate staffing, consisting of at least two (2) full-time and at least, sixteen (16) part-time, trained employees in the VIC. Staff shall be dedicated to assisting visitors and providing tourist-related information. Tourist-related information includes, but is not limited to, information regarding local attractions, amenities, accommodations and dining.
3. Establish a concierge desk within the VIC to assist visitors and to encourage longer stays in the area.
4. Provide designated areas within the VIC for viewing County-approved, promotional videos and maintain exhibits interpreting the history of St. Augustine.
5. Endeavor to, in cooperation with the County and in accordance with all applicable local regulations, provide trained staff, preferably dressed in period costumes, to greet and provide off-site assistance to visitors within the City's Historic Preservation District. Such staff will be referred to as "On-the-Street-Hosts" and will provide visitor assistance no less than four (4) days per week weather permitting.
6. Implement programs to monitor and ensure that visitors are provided positive, accurate tourist-related information. The results of such programs will be reported to the St. Johns County Tourist Development Council no less than two times per year.
7. Develop and implement a hospitality training program to include curriculum materials, testing and certification for all VIC employees. A detailed description of the program, including training materials shall be provided to the County for review and approval within one hundred twenty (120) days after the date this Agreement is executed. The materials shall be revised annually and presented to the St. Johns County Tourist Development Council for review and comment.

8. Provide visitors with informative resources including, but not limited to, maps, materials promoting local attractions, and emergency preparedness guides.
9. Facilitate the County's efforts to gather visitor information for marketing and research.
10. Provide free parking for tour buses.
11. Coordinate with the County to incorporate the VIC into, or develop, an emergency communications plan related to tourists or tourist activities.
12. Provide to the County monthly reports, which includes the total number of visitors assisted by VIC staff, the type of assistance provided by staff, and any survey/poll/study results. Upon request by the County, provide additional information related to the VIC operations and host programs.

Section 4. Compensation.

A. The maximum amount available as compensation to the City for satisfactory performance of the Scope of Services is one hundred eighty thousand dollars (\$180,000). It is strictly understood by the parties hereto that the City is not entitled to the above-noted amount of compensation as a matter of right. Rather, such compensation and reimbursable expenses are based upon the City's satisfactory performance in accordance with the provisions contained in this Agreement.

B. Performance by the County is conditioned on, and subject to, specific annual appropriations by the Board of Tourist Development Tax revenues sufficient to pay the compensation described above.

Section 5. Billing/Invoicing.

A. To the extent that the City is not in violation with any material aspect of this Agreement and/or has not received notice of termination of this Agreement from the County, then the City may bill/ invoice the County according to the following schedule:

\$90,000 October 1 each year

\$90,000 April 1 each year

Or at any time after July 1 and before September 30 each year, one invoice for
\$180,000.00

B. Although there is no form or format pre-approved by the County for billing/invoicing, any bill/invoice submitted by the City to the County shall include a detailed description report of the work accomplished in connection with the Scope of Services. The County

may return a bill/invoice from the City, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.

C. Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Tourist Development Council
Attn: Executive Director
500 San Sebastian View
St. Augustine, Florida 32084

D. Upon receipt and verification of the City's bill/invoice, the County shall process the bill/invoice, and forward payment to the City within forty-five (45) days of verification.

Section 6. Termination of Agreement.

A. This Agreement may be terminated without cause upon either the County or the City providing at least ninety (90) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the County or the City intends to terminate this Agreement ninety (90) days from the date of notification (unless a date greater than ninety (90) days is noted).

B. This Agreement may be terminated with cause upon either the County or the City providing at least thirty (30) days advance written notice to the other party of such notice of termination for cause. Such written notification shall include the exact cause for termination as provided herein or as otherwise noted by the County, the effective date of termination, unless, prior to the termination date, the party seeking termination for cause provides an opportunity to cure/correct the condition as specifically provided in the written notice described in this Section.

C. Consistent with other provisions of this Agreement, the City shall be compensated for any services and/or expenses that are both authorized under this Agreement and that are performed and/or accrue up to the termination of this Agreement.

Section 7. Indemnity.

A. To the extent permissible by law, the City shall indemnify, defend, and hold the County, its officials, agents, and employees harmless from and against all claims (including tort-based, contractual, injunctive and/or equitable), losses (including property (personal and/or real), and bodily injury), costs (including attorneys' fees), suits, administrative actions, arbitration, or mediation originating from, or associated with, or growing out of (directly or indirectly), the City's negligent or intentional acts or omissions in performing the services described in this Agreement.

B. Nothing contained in this Agreement shall be construed or interpreted to constitute a waiver of sovereign immunity as provided under section 768.28, Florida Statutes.

Section 8. Insurance.

A. The City shall secure and maintain for the Term (including any Extended Terms) of this Agreement all insurance coverage required by applicable law and in accordance with County policy, in no less than the minimum amounts required. The City shall not begin performance under this Agreement until all insurance required under this section has been secured and approved by the COUNTY. The City shall furnish proof of such insurance to the County prior to any performance under this Agreement. All insurance coverage shall be issued by companies authorized to do business under the laws of the State of Florida, and in the types and amount required by the County.

B. The insurance certificate(s) shall clearly indicate that the City has obtained insurance of the types, amounts, and classifications as specified by the County, and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County.

C. Insurance certificates shall specifically include the County as an additional insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany each certificate.

Certificate Holder Address: St. Johns County
500 San Sebastian View
St. Augustine, FL 32084

D. The City shall insure the VIC for the entire term of the agreement at the City's expense for hazard and flood losses with policy limits as determined by the City to ensure continuity of services following a loss.

E. The City shall maintain during the life of this Contract, Comprehensive General Liability Insurance in compliance with Florida Statute 768.28 with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the parties from claims for damages for bodily injury, including wrongful death, negligence, errors and omissions, as well as claims of property damages which may be caused by or arise from any operations under this agreement, whether such operations be by the City or by anyone directly employed by or contracting with the City.

F. The City shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as are required by the law for all of its employees per Florida Statute 440.02.

G. In the event of unusual circumstances, the County Administrator or his designee may adjust the insurance requirements provided herein. Failure to secure or maintain any

required insurance coverage shall constitute cause for termination of this Agreement by the County.

Section 10. Amendments.

Both the County and the City acknowledge that this Agreement constitutes the complete agreement and understanding of both parties. Any modification, revision and/or amendment to this Agreement shall be in writing, and executed by duly authorized representatives of both the County and the City after review and approval of their governing boards.. It is hereby noted that, should any proposed modification, revision and/or amendment to this Agreement trigger the application of a County administrative policy, resolution or ordinance, then such application shall be a condition precedent to the modification, revision and/or amendment to this Agreement.

Section 11. Assignment.

In light of the scope and rationale for this Agreement, neither the County nor the City may assign, transfer, and/or sell any of the rights noted in this Agreement without the express written approval of the other party. Notwithstanding any other provision contained herein, should either the County or the City assign, transfer, or sell any of the rights noted in this Agreement without such prior expressed written approval of the other party, then such action on the part of either the County or the City shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 12. Notice.

A. All notices to the County shall be delivered either by hand (receipt of delivery required) or by certified mail to:

County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

With copies to:

Director of Tourism Development
500 San Sebastian View
St. Augustine, Florida 32084

County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

B. All Official Notices to the City shall be delivered either by hand (receipt of delivery required), or by certified mail to:

City of St. Augustine, Florida
City Hall, 75 King Street
St. Augustine, FL 32084
Attn: City Manager

C. All other correspondence not classified as notice(s) may be delivered, disseminated, and/or submitted by any means acceptable to both parties, specifically including faxing, e-mailing, or text messaging.

Section 13. Relationship of the Parties.

A. The City is, and shall be, in the performance of services and activities described in this Agreement, an independent contractor, and not an employee, agent, official, or servant of the County. As such, neither the City, nor any employees, agents, officials, servants, or subcontractors of the City are eligible for any benefits afforded employees, or officials of the County.

B. This Agreement shall not be deemed or construed to create any agency relationship, partnership (limited or otherwise), association or joint venture between the County and the City.

C. It is expressly understood by the parties hereto that the City does not have the power or authority to bind (legally or equitably), in any manner whatsoever the County in any promise, agreement, or representation, other than as specifically provided for in this Agreement.

Section 14. Public Records.

A. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

Section 15. Review of Records.

As a condition of entering into this Agreement, and to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the City hereby authorizes the County to examine, review, inspect and/or audit the City'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 City is under no duty or obligation to provide access to books and records, not related to this Agreement, and is otherwise protected from disclosure by Local, State, and/or Federal law.

Section 16. No Third Party Beneficiaries.

Both the County and the City acknowledge, 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 17. Permits and Licenses.

To the extent that the City needs to secure and maintain permits, licenses and/or approvals, in order to operate the VIC, or to perform any of the services described herein, then the City shall be responsible for securing and maintaining, at the City's sole expense, any, and all, permits, licenses and/or approvals required by Local, State and/or Federal, law, rule, regulation, or ordinance. Any such required permits, licenses and/or approval shall be maintained for the Term (including and Extended Terms) of this Agreement. Failure by the City to comply with this provision shall constitute cause for termination of this Agreement by the County.

Section 18. Governing Law and Venue.

This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under the Agreement shall be in St. Johns County, Florida.

Section 19. Compliance with Local, State, and Federal Rules, Regulations, and Laws.

Both the County and the City, in performing under this Agreement, shall abide by, and comply with, all applicable laws, rules, regulations, orders, and policies, of the Local, State, and Federal governments.

Section 20. Use of the County Logo.

Pursuant to, and consistent with, County Ordinance 92-2, and County Administrative Policy 101.3, the City shall not manufacture, use, display, or otherwise use any facsimile or reproduction of the County Seal/Logo without express written approval by the Board.

Section 21. 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 proscribed 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 22. Force Majeure.

Neither the County, nor the City, 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 anticipate and/or control.

Section 23. Non-Waiver.

The failure of either the County or the City to insist upon strict performance of any term, condition, provision, and/or requirement of this Agreement, shall not be construed as a waiver of such term, condition, provision, and/or requirement on any subsequent occasion.

Section 24. Headings.

All sections and descriptive headings of sections noted in this Agreement are inserted only for the convenience of the parties hereto and shall not affect and/or control interpretation of this Agreement.

Section 25. Survival.

It is expressly noted that the following provisions of this Agreement, to the extent necessary, shall survive any expiration, suspension, termination, cancellation, revocation, and/or non-renewal of this Agreement, and therefore, shall be both applicable and enforceable beyond any expiration, suspension, termination, cancellation, revocation, and/or non-renewal of this Agreement:

Section 26. Authority to Execute.

Each of the parties hereto covenants to the other party that it has lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative.

Section 27. Execution in Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement on the date and year below written:

COUNTY

By: _____
County Administrator
Date: _____

Legal Review as to Sufficiency:

By: _____
Deputy County Attorney
Date: _____

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk

CITY

By: _____
Position: _____
Date: _____

WITNESS: _____
Print Name: _____

WITNESS: _____
Print Name: _____