

RESOLUTION NO. 2013-261

**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 ST. JOHNS COUNTY CHAMBER OF COMMERCE TO PROVIDE FOR CERTAIN TOURIST RELATED SERVICES AND OPERATION OF THE PONTE VEDRA BEACH/ST. JOHNS COUNTY VISITORS INFORMATION CENTER (“VIC”) 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 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 Chamber have a strong history of working together to attract tourist to the County and to promoting tourist related industries and activities; and

**WHEREAS**, subject to the terms and conditions contained herein, the County and Chamber seek to enter into an agreement to provide for certain tourist related services and operation of the Ponte Vedra Beach/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 as a proper public purpose and is in the best interests of the citizens of the County.

**NOW, THEREFORE, the County and the Chamber, 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 this Agreement shall begin on October 1, 2013, ("Effective Date") and continue through and until 11:59 p.m., on September 30, 2014. ("Expiration Date").

Section 3. The Board of County Commissioners hereby approves the terms, provisions conditions, and requirements of this agreement to provide for certain tourist related services and operation of the Ponte Vedra Beach/St. Johns County Visitors Information Center ("VIC") between St. Johns County, Florida and the St. Johns County Chamber of Commerce (attached hereto, and incorporated herein), and authorizes the County Administrator, or designee to execute a legally sufficient Agreement on behalf of St. Johns 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 3<sup>rd</sup> day of December, 2013.

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

By: \_\_\_\_\_

John H. Morris, Chair

**ATTEST:** Cheryl Strickland, Clerk

By: \_\_\_\_\_

Pam Halteman  
Deputy Clerk

**RENDITION DATE** 12/5/13



**TOURIST DEVELOPMENT AGREEMENT  
BETWEEN  
ST. JOHNS COUNTY, FLORIDA  
AND  
ST. JOHNS COUNTY CHAMBER OF COMMERCE**

**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 St. Johns County Chamber of Commerce (“Chamber”), a non-profit corporation organized and existing under the laws of the State of Florida, whose address is 1 Riberia Street, St. Augustine, Florida 32084.

**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 Chamber have a strong history of working together to attract tourist to the County and to promoting tourist related industries and activities; and

WHEREAS, subject to the terms and conditions contained herein, the County and Chamber seek to enter into an agreement to provide for certain tourist related services and operation of the Ponte Vedra Beach/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 Chamber, 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, 2013, (“Effective Date”) and continue through and until 11:59 p.m., on September 30, 2014. (“Expiration Date”).

B. No later than thirty (30) days prior to the Expiration Date, either the County or the Chamber may request, in writing, an extension of the Term for a period of time 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 Chamber shall:

1. Open and operate the VIC, daily from 8:30 a.m. until 6:00 p.m. Subject to Section 21 (entitled “Force Majeure”) contained herein, the VIC will be open to visitors no less than 261 days per calendar year.
2. Establish a concierge desk within the VIC to assist visitors.
3. Provide at least one full-time, trained staff member in the VIC, 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.
4. As needed, provide additional trained staff during special events to greet and provide offsite assistance to visitors.
5. Provide to the County for review and approval, any materials used to train VIC staff.
6. Provide designated areas within the VIC for viewing County-approved, promotional videos.
7. Provide visitors with informative resources including, but not limited to, maps, materials promoting local attractions, and emergency preparedness guides.
8. Facilitate the County’s efforts to gather visitor information for marketing and research.
9. Provide free parking for VIC visitors.
10. Promote and advertise the VIC.
11. Maintain a daily log, recording the number of VIC walk-in visitors and telephone/website inquiries.
12. Coordinate with the County to incorporate the VIC into, or develop, an emergency communications plan related to tourists or tourist activities.

13. Provide to the County a monthly report, 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.

**B. Tourist Development.** The Chamber shall:

1. Assist the County in planning, promoting and assisting visitors during special events including, but not limited to, "The 26.2 with DONNA" marathon, which has a starting point in Ponte Vedra Beach, Florida.
2. Provide to the County content related to Ponte Vedra Beach for promotional use on the County website (VisitPonteVedra.com).
3. Assist the County in assessing the expansion of the annual Nights of Lights event to Ponte Vedra Beach, Florida. As requested by the County, assist in promoting and advertising the annual Nights of Lights event.
4. Promote Ponte Vedra Beach as a tourist destination.

**Section 4. Compensation.**

The maximum amount available as compensation and reimbursable expenses to the Chamber for satisfactory performance of the Scope of Services is eighty thousand dollars (\$80,000), unless otherwise amended in the manner set forth in this Agreement. It is strictly understood by the parties hereto that the Chamber is not entitled to the above-noted amount of compensation and reimbursable expenses as a matter of right. Rather, such compensation and reimbursable expenses are based upon the Chamber's satisfactory performance in accordance with the provisions contained in this Agreement.

**Section 5. Billing/Invoicing.**

A. To the extent that the Chamber 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 Chamber may bill/ invoice the County according to the following schedule:

Eleven monthly installments of six thousand six hundred and sixty dollars (\$6,660.00) beginning with October 2013, due upon receipt of an invoice and a report described in Section 3A(13) and one final invoice for six thousand, seven hundred and forty dollars for the month of September.

B. Although there is no form or format pre-approved by the County for billing/invoicing, any bill/invoice submitted by the Chamber 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 Chamber, 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 Chamber's bill/invoice, the County shall process the bill/invoice, and forward payment to the Chamber 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 Chamber 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 Chamber 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 Chamber 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 Chamber 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.**

The Chamber 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 Chamber's negligent or intentional acts or omissions in performing this Agreement.

#### **Section 8. Insurance.**

The Chamber shall secure and maintain for the Term (including any Extended Terms) of this Agreement, any and all insurance coverages as required by applicable law and in accordance with County policy, in no less than the minimum amounts required by the County. The Chamber shall have the County named as an additional insured. 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 Chamber 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 Chamber. 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 Chamber 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 Chamber 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 Chamber 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 a 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 Chamber shall be delivered either by hand (receipt of delivery required), or by certified mail to:

St. Johns County Chamber of Commerce  
Attn: Executive Director  
1 Riberia Street  
St. Augustine, Florida 32084

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 Chamber 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 Chamber, nor any employees, agents, officials, servants, or subcontractors of the Chamber 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 Chamber.

C. It is expressly understood by the parties hereto that the Chamber 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.

B. In accordance with Florida law, to the extent that Chamber's performance under this Agreement constitutes an act on behalf of the County, Chamber shall provide access to all public records made or received by Chamber in conjunction with this Agreement. Specifically, if Chamber is expressly authorized, and acts on behalf of the County under this Agreement, Chamber shall:

- (1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Chambering services described herein;
- (2) provide the public with access to public records related to this Agreement on the same terms and conditions that the County would provide the records, and at a

cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by applicable law;

- (3) ensure that public records related to this Agreement that are exempt or confidential and exempt from public disclosure are not disclosed except as authorized by applicable law; and
- (4) meet all requirements for retaining public records, and transfer at Chamber's sole cost and expense, all public records in the possession of Chamber upon termination of this Agreement. Chamber shall destroy any duplicate records that are exempt or confidential and exempt from public disclosure requirements in accordance with applicable State and Federal provisions. Any public records stored electronically must be provided to the County in a format that is compatible with information technology systems maintained by the County.

C. Failure by Chamber to grant such public access shall constitute cause for termination of this Agreement by the County. Chamber shall promptly provide the County notice of any request to inspect or copy public records related to this Agreement in Chamber's possession and shall promptly provide the County a copy of Chamber's response to each such request.

#### **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 Chamber hereby authorizes the County to examine, review, inspect and/or audit the Chamber'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 Chamber 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 Chamber 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 Chamber 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 Chamber shall be responsible for securing and maintaining, at the Chamber'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 Chamber 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 Chamber, 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 Chamber 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 Chamber, 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 Chamber 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

CHAMBER

By: \_\_\_\_\_  
County Administrator  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Position: \_\_\_\_\_  
Date: \_\_\_\_\_

Legal Review as to Sufficiency:

WITNESS: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Senior Assistant County Attorney  
Date: \_\_\_\_\_

WITNESS: \_\_\_\_\_  
Print Name: \_\_\_\_\_

ATTEST: Cheryl Strickland, Clerk

By: \_\_\_\_\_  
Deputy Clerk