

RESOLUTION NO. 2013- 68

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, REVISING THE EXISTING TOURISM DEVELOPMENT AGREEMENT BETWEEN ST. JOHNS COUNTY AND THE PONTE VEDRA CHAMBER OF COMMERCE, APPROVING THE MERGER OF THE PONTE VEDRA CHAMBER OF COMMERCE INTO THE ST. JOHNS COUNTY CHAMBER OF COMMERCE FOR THE PURPOSES OF SAID TOURISM DEVELOPMENT AGREEMENT; PROVIDING A VISITOR INFORMATION CENTER AND SERVICES FOR 2013, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY.

WHEREAS, the St. Johns County Tourist Development Council has recommended that the Board and St. Johns County Chamber of Commerce enter into the agreement for 2013, so that the St. Johns County Chamber of Commerce can provide visitor information services; and

WHEREAS, the Board has reviewed the terms, provisions, conditions, and requirements of the 2013 Agreement for Visitor Information Services between St. Johns County, Florida, and the St. Johns County Chamber of Commerce; and

WHEREAS, the Board has determined that the Agreement for Visitor Information Services between St. Johns County, Florida and the St. Johns County Chamber of Commerce is in the overall interest of St. Johns 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 incorporated by reference into the body of this Resolution, and are adopted as Finds of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the revised 2013 agreement for Visitor Information Services 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 the 2013 Agreement on behalf of St. Johns County.

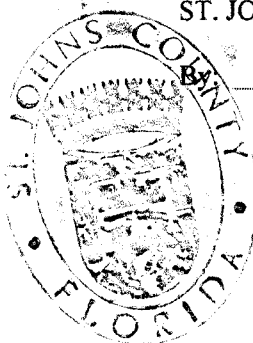
Section 3. To the extent that there are typographical errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of April, 2013.

ATTEST: Cheryl Strickland, Clerk

By: Pam Salterman
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA



John H. Morris
John H. Morris, Chair

RENDITION DATE 4/3/13

**Tourism Development Agreement Between
St. Johns County, Florida, and St. Johns County Chamber of Commerce**

THIS **TOURIST DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into 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, and the **St. Johns County Chamber of Commerce**, St. Johns County, Florida, a 501(c)(6) corporation under the Internal Revenue Code as not-for-profit and existing under the laws of the State of Florida, whose address One Iberia Street, St. Augustine, Florida 32084.

WHEREAS, the Board of County Commissioners of St. Johns County, Florida ("Board"), has determined that tourism and the tourism industry, among others are vital to the economy of the County and should be enhanced and expanded to improve the competitive position of the County, and to enhance the quality of life of its residents; and

WHEREAS, there is need to enhance the tourist activity within the County providing information to visitors to the County about its attractions, businesses and amenities, in order to provide a stronger, more balanced and stable economy in the County, while providing for the health, safety, and welfare of its residents.

WHEREAS, the Agreement had been made between the County and the Ponte Vedra Chamber of Commerce and the Ponte Vedra Chamber of Commerce is in the process of merging with the St. Johns County Chamber of Commerce; and

WHEREAS, the County and the St. Johns County Chamber of Commerce wish to continue said agreement through the end of its current term (September 30, 2013).

NOW, THEREFORE, the parties hereto, 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 by reference into the body of this Agreement, and such Recitals are adopted as Findings of Fact.

Section 2. Definitions.

The following words and phrases shall have the following meanings herein:

"Chamber" means the St. Johns County Chamber of Commerce, St. Johns County, Florida.

"Visitor Information Center" means the center established by the Chamber to provide information to the general public as to the origins, history, highlights and amenities of St. Johns County and the County.

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, or other portion, or the prescribed application thereof, shall be severable, and the remaining portions of this Agreement, 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 administrative and/or legal action arising under this Agreement shall be in St. Johns County.

Section 5. Duration of Agreement.

The duration of this Agreement runs from the date of execution, through, and until 11:59 pm on September 30, 2013.

Section 6. Extension of Agreement.

Either the County, or the Chamber may request, in writing, an extension of this Agreement. If the extension request is acceptable to the other party, then such party shall approve the extension request, in writing. Both the extension request, and the approval of the extension request, shall indicate the timeframe/duration of the extension of this Agreement.

Section 7. Procedure for Achieving Assignment. Effect of Not Following Procedure.

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, or associated with this Agreement, without the express written approval of the other party. Should either the County, or the Chamber, assign, transfer, and/or sell any of the rights of this Agreement, without such prior 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 8. Amendments to Agreement.

Both the County, and the Chamber acknowledge that this Agreement constitutes the complete agreement and understanding of both parties. Both the County and the Chamber acknowledge that any amendments to this Agreement shall be in writing, and shall be executed by duly authorized representatives of both County, and the Chamber.

Section 9. Termination of Agreement.

This Agreement may be terminated without cause upon either the County, or the Chamber giving ninety (90) days advance written notice to the other party of such notice of termination. Such written notification shall indicate the effective date of termination.

This Agreement may be terminated with cause upon either the County, or the Chamber giving at least thirty (30) days advance written notice to the other party of such notice of termination. Such written notification shall indicate the exact cause for termination, the effective date of termination, and shall result in termination of this Agreement, if the initiating party does not withdraw the notice of termination, or the: initiating party does not accept from the other party the explanation or mitigating circumstances surrounding the cause for termination, or the initiating party does not accept the cure or timeframe for cure presented by the other party.

Consistent with other provisions of this Agreement, the Chamber will be compensated for any services and/or expenses that are authorized under this Agreement, and that are performed and/or accrued up to the date of the notice of termination (whether with cause or without cause). Thereafter, the County will only pay for services and/or expenses that are pre-approved by the County Administrator, or his/her designee.

Section 10. Representations of County.

The County is a political subdivision duly organized and validly existing under the laws and constitution of the State of Florida and has all requisite power and authority as a county to enter into, and perform its obligations under this Agreement.

This Agreement has been duly authorized by all requisite action (including without limitation, all required approvals of the Board at meeting duly call and held pursuant to the applicable requirements of the law), and is enforceable against the County in accordance with its terms.

The consideration of the transactions of the County provided for herein, will not constitute a violation or breach by the County of any provision of any resolution, ordinance, law, regulation or constitutional provision, nor will it constitute a violation of any provision of any agreement or other instrument to which the County is a party.

The consideration set forth in this Agreement will not result in or constitute a violation or breach of any judgment, order, writ, injunction, or decree issued or pending against the County.

Section 11. Representations of the Chamber.

The Chamber is a not-for-profit corporation organized under Internal Revenue Code Section 510(c)(6) and duly organized and validly existing under the laws of the State of Florida.

Section 12. Establishment of a Visitor Information Center.

By virtue of this Agreement, and in a manner consistent with the terms, provisions, conditions, and requirements of this Agreement, both the County, and the Chamber agree that the Chamber will establish a Visitor Information Center (VIC).

The VIC will provide information to the general public as to the origins, history, highlights, and amenities of St. Johns County and the County.

At a minimum, the VIC will contain and/or include brochure racks, displays of attractions and tourist-related businesses throughout the County, and telephone banks for the purpose of receiving reservations at hotels and motels throughout the County.

Furthermore, the VIC will provide the services, set forth in attached and incorporated Exhibit A.

Section 13. Compensation.

The maximum amount available as compensation to the Chamber is \$75,000.00 (seventy-five thousand dollars), unless amended in the manner set forth in this Agreement. It is specifically understood that the Chamber is not entitled to the above-referenced amount of compensation as a matter of right. Rather, the Chamber's compensation is based on the Chamber meeting and/or exceeding, the terms, conditions, provisions, and requirements set forth in this Agreement, and any attached and incorporated Exhibits. The total amount of compensation of \$75,000.00, referenced above, is reflective of expenses.

Section 14. Billing/Invoicing Schedule

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 from the County, then the Chamber may bill/invoice the County according to the following schedule:

October, 2009	\$6,250.00
November, 2009	\$6,250.00
December, 2009	\$6,250.00

January, 2013	\$6,250.00
February,2013	\$6,250.00
March,2013	\$6,250.00
April, 2013	\$6,250.00
May, 2013	\$6,250.00
June, 2013	\$6,250.00
July, 2013	\$6,250.00
August, 2013	\$6,250.00
September, 2013	\$6,250.00

Though there is no billing form or format pre-approved by the County, invoices submitted by the Chamber, shall include detailed information on the scope of activities performed at the VIC on a monthly basis. The County may return an invoice from the Chamber, and request additional documentation. Under such circumstances, the timeframe for payment is extended by the time necessary for the County to receive a verified invoice.

Unless otherwise notified, invoices should be

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

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 15. No Commitment of County Funds.

While the County will make all reasonable efforts, in order to provide funds needed to operate and maintain the Visitor Center, the County makes no express commitment to provide such funds in any given County Fiscal Year. Moreover, it is expressly noted that the Chamber cannot demand that the County provide any such funds in any given County Fiscal Year.

Section 16. Relationship of County and Chamber.

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.

Section 17. 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 the County, or the Chamber's ability to anticipate and/or control.

Section 18. Permits and Licenses.

To the extent that the Chamber needs to secure, obtain/acquire, and maintain permits and/or licenses, in order to manage and/or operate the VIC, or facilitate activities at the VIC, then the Chamber shall be responsible for securing, obtaining/acquiring, and maintaining, at the Chamber's sole expense, any, and all, permits, licenses, and/or approvals required by Federal, State, and/or County law, rule, regulation, or ordinance. Specifically, the Chamber shall be required to secure, obtain, acquire, and maintain for the duration of this Agreement, any, and all, State permits licenses, and approvals that are required for, or associated with VICs.

Section 19. Insurance.

The Chamber shall have, and maintain, for the duration of this Agreement, including and extensions of this Agreement), any, and all, insurance coverage (including automobile liability insurance if vehicles are use 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 Chamber shall have the County named as an additional insured. Failure to maintain any, and/or all required insurance shall result in automatic termination of this Agreement, without the necessity of providing any further written notification of termination.

Section 20. Indemnity.

The Chamber shall indemnify, defend, and hold the County harmless from 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, connected with, or associated with, or growing out of (directly or indirectly), the operation and management of the VIC. Moreover, the Chamber shall indemnify, defend, and hold the County harmless from all claims, losses, costs, suits, and administrative actions, arbitration, or mediation, from, or incident to, connected with, associated with, or growing out of direct and/or indirect negligent, or intentional acts or omissions associated with activities presented or conducted at the VIC.

Section 21. Headings.

The captions and headings contained in this Agreement are for reference purposes only, and shall not in any way affect the meaning or interpretation thereof.

Section 22. No Third Party Beneficiaries.

Both the County and the Chamber 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 23. No Waiver.

The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant or condition herein. The waiver by either or all parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law and the provisions of this Agreement shall not exclude other remedies unless they are expressly excluded.

Section 24. Notices.

All notices and demands herein shall be in writing. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered personally or delivered by express mail or courier service or sent by United States Mail registered or certified, postage prepaid, to the addresses set forth below:

If to the County:

St. Johns County
County Administration Building
500 San Sebastian View
St. Augustine, FL 32084
Attn: County Administrator

If to the Chamber:

St. Johns County Chamber of Commerce
One Riberia Street
St. Johns County, FL 32084
Attn: Executive Director

Any notice, demand or request which shall be serve upon either of the parties in manner aforesaid shall be deemed sufficiently given for all purposes hereunder (i) at the time such notices, demands or requests are hand-delivered or (ii) at the time such notices, demands or requests are posted, postage prepaid, in the United States Mail in accordance with the preceding portion of this Section; provided, however, the time for response to any notice, demand or request shall commence three days after Such posting or upon receipt, whichever is earlier.

Section 25. Counterparts.

This Agreement may be executed by the parties hereto individually or in combination, in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

Section 26. Access to Records.

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

Section 27. Review of Records.

As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Chamber authorizes the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data documents, and correspondence), 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 to provide access to documentation not related to this Agreement, and/or is otherwise protected by County, State, or Federal law.

Section 28. Use of County Logo.

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

It is explicitly noted that the following provisions of this Agreement, to the extent necessary, shall survive any suspension termination, cancellation, revocation, and/or non-renewal of this Agreement, and therefore shall be both applicable, and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: 1) Section 20 (Indemnity); 2) Section 26 (Access to Records); 3) Section 27 (Review of Records); 4) Section 28 (Use of County Logo).

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

ST. JOHNS COUNTY FLORIDA

ST. JOHNS COUNTY CHAMBER OF
COMMERCE

By: _____

By: _____

ATTEST: CHERYL STRICKLAND
CLERK OF COURTS

WITNESS:

By: _____

By: _____

WITNESS:

By: _____

Tourism Development Agreement Between St. Johns County
and
The St. Johns County Chamber of
Commerce
To Provide A Visitor Information Center and
Services

Exhibit "A"

The St. Johns County Chamber of Commerce shall continue to operate the St. Johns County / St. Johns County Visitors Information Center (VIC) as specified in the previous agreement between the parties. The Chamber will further develop programs to provide a true orientation center and

1. Open and operate the VIC a minimum of 261 days per year, Mondays through Friday
 - a. The Chamber will make every effort to remain open as long as safely possible as an information source for visitors seeking shelter or evacuation information leading up to and during natural disasters such as hurricanes.
 - i. There will be no penalty if the Chamber is unable to open and operate the VIC for 261 days annually due to natural disasters.
 - ii. The Chamber will work with the County to incorporate the VIC as part of its emergency communications plans relating to the tourism industry if necessary.
 - b. Provide access to visitors inside the VIC by the County for the purpose of obtaining tourism research and marketing information.
 - c. Provide viewing areas inside the VIC for County produced promotional videos.
 - d. Distribute County provided maps and other visitor services and/or promotional materials at the VIC at no additional costs to the County and without prejudice of Chamber membership.
 - e. Develop a St. Augustine, St. Johns County & The Beaches Concierge Desk with tourism information of a county-wide nature, encouraging visitors to stay longer.

- f. Promote the existence of the VIC through appropriate and legal signage and other methods.
2. Provide mobile visitor services during St. Johns County area special events as requested, for the purpose of greeting visitors and providing visitor information. The Chamber agrees that it will not use the mobile visitor services to steer visitors exclusively to attractions or other businesses based on fees paid by businesses to the Chamber.
3. Implement a "secret shopper" program to assure accurate, positive, and fair information is provided to visitors. Results of the program will be shared on a semi-annual basis with the County's Tourist Development Council.
4. Provide adequate staffing for the VIC, and Hosts programs consisting of at least one full-time employee and two part-time employees.
5. Develop and conduct an ongoing hospitality training program for its VIC, St. Johns County wide tourism related information including a certification program requiring completion and testing of employees. The curriculum and materials shall be presented to the County for approval within 30 days following execution of this agreement. The materials will be submitted to the St. Johns County Tourist Development Council.
6. The Chamber will provide a report monthly to the St. Johns County Tourist Development Council on the operations of its Visitor Information Center programs covered by this Agreement, including,
 - a. A log of the number of visitors seeking information at the VIC by day of the week; and,
 - b. General types of information sought by party (accommodations, attractions, golf, dining, event)
7. The Chamber will provide free parking at the VIC for visitors.