

## **LOCAL SPORTS DESTINATION ENHANCEMENT GRANT PROGRAM ADDITIONAL TERMS**

In accordance with §125.0104, Florida Statutes, the County has allocated a portion of the Tax to create and fund the Local Sports Destination Enhancement Grant Program (“Program”), the purpose of which is to promote and advertise activities, services, venues, and events that will attract tourists to Alachua County.

On March 9, 2021, the Alachua County the Board of County Commissioners awarded the Applicant grant funding for the Event subject to these terms and condition.

All grant funding must be used for the Event in accordance with the provisions of §125.0104, Florida Statutes.

At least of Twenty-Five Percent (25%) of the total grant funding award must be used to for “Out of County” marketing of the Event. “Out of County” marketing is defined as advertising, promotion, direct sales, publicity and sales activities that take place and are directly targeted to persons and groups that live outside the boundaries of Alachua County, and whose purpose is to attract tourists to Alachua County;

No more than Seventy-Five Percent (75%) of the total grant funding award may be used for Operational expenses for the Event, as set forth in the application (**Exhibit “1”**) and Revised Event Budget for Tourist Development Fund Expenditures, which is attached hereto and incorporated by reference as **Exhibit “2”**. If there is a conflict or inconsistency between the Operational expenses set forth in Exhibit “1” and Exhibit “2”, Exhibit “2” shall govern and control.

**Non-Allowable Expenses are itemized in Exhibit 1.** All funds are available on a reimbursement basis only. Copies of paid invoices, cancelled checks, tear sheets, printed samples or other backup information that shows proof-of-payment must accompany all requests for funds. All requests for reimbursement must be received in a timely fashion from the close of the Event.

The Applicant shall submit a year-end report to the Alachua County Visitors and Convention Bureau no later than November 30, 2021, which documents the Applicant’s overall activities during the entire grant period.

The Applicant shall allow the County, or its agents, full access to the funded event(s) to facilitate information gathering on the impact of the Event.

**Credit attribution requirements are itemized in the application.** The Applicant shall comply with the following requirements to be eligible for reimbursement of marketing expenses on social media

**Method of Payment.** For all eligible expenses actually, timely and faithfully incurred by the Applicant, the County shall reimburse the Applicant as follows:

The Applicant is eligible to be reimbursed to up the total amount for eligible expenses incurred by the Applicant, including those incurred since October 1, 2020.

Reimbursement shall be provided for the budgeted line items listed in Exhibit “2”. Upon request by the Applicant, the County’s Tourism Manager may authorize changes to the budgeted line items, but may not increase the total grant award amount or decrease the amount of the grant funding that must be spent on “Out of County” marketing of the Event. Reimbursement will be made only for expenses authorized by §125.0104(5), Florida Statutes. Any expense claimed for reimbursement that is not authorized by §125.0104(5), Florida Statutes, will not be reimbursed, approval of the grant application and the Applicant’s budget notwithstanding.

As a condition precedent for any payment, the Applicant shall submit an invoice to the County requesting payment for reimbursement under the terms of this Agreement. The Applicant's invoice shall describe with reasonable particularity the reimbursement due based on categories approved by the grant award and the dates thereof. The Applicant's invoice shall be accompanied by copies of all invoices and cancelled checks showing the amount paid for all eligible expenses for which reimbursement is being requested from the County, and such other documentation or data in support of expenses for which payment is sought as the County may require. Each invoice shall constitute the Applicant's representation to the County that the expenses indicated in the invoice are eligible for reimbursement, meet all requirements of this Agreement, have been properly and timely incurred as required herein, that all expenses incurred were for a public purpose, that the amount requested has not and will not be reimbursed by another party; there being no reason known to the Applicant that payment of any portion thereof should be withheld. Each invoice shall contain the following certification and the applicant hereby agrees that is authorized to affirm the following certification on behalf of the Applicants:

"I hereby certify that the expenses requested for payment, as represented in this invoice, are for allowable, properly documented and eligible for reimbursement in accordance with the **Local Sports Destination Enhancement Grant**.

#### **Default and Termination Failure to Meet the "Out of County" Marketing Requirements**

In the event the Applicant fails to meet the "Out of County" marketing requirements, the total award will be reduced by a ratio of three dollars (\$3.00) for every one dollar (\$1.00) that the Applicant fails spend on required "Out of County" marketing.

If the County pays the Applicant an amount that exceed the adjusted Grant Award amount, which was reduced due to the Applicant's failure to meet the "Out of County" marketing expense, the Applicant shall immediately reimburse the difference to the County.

All payments by the Applicant to the County that are required by paragraph must be paid within sixty (60) days of the Event date or, if the Event is comprised of more than one (1) activity or event, by the end of the Event cycle period, whichever is applicable.

If funding is not timely reimbursed to the county, the County may elect to disqualify the Applicant from future grant funding eligibility for two (2) grant cycles. If the Applicant does not voluntarily reimburse the County, the Applicant shall be automatically disqualified from future grant funding eligibility for three (3) grant cycles.

The failure of the Applicant to comply with any material provision of this Agreement will place the Applicant in default. Prior to terminating the Agreement, the County will notify the Applicant in writing. This notification will make specific reference to the provision which gave rise to the default. The County will give the Applicant ten (10) calendar days to cure the default. The Alachua County Visitors and Convention Bureau Manager is authorized to provide written notice of default on behalf of the County, and if the default situation is not corrected within the allotted time, the County Manager is authorized to provide final termination notice on behalf of the County to the Applicant.

If funds to finance this Agreement become unavailable, the County may terminate the Agreement with no less than twenty-four hours' notice in writing to the Applicant. The County will be the final authority as to the availability of funds. The County will pay the Applicant for all eligible expenses incurred prior to any notice of termination.

## **Project Records**

### **General Provisions:**

Any document submitted to the County may be a public record and is open for inspection or copying by any person or entity. "Public records" are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency per §119.011(12), Florida Statutes. Any document is subject to inspection and copying unless exempted under Chapter 119, Florida Statutes, or as otherwise provided by law.

In accordance with §119.0701, Florida Statutes, the Applicant, *when acting on behalf of the County*, as provided under §119.011(2), Florida Statutes, shall keep and maintain public records as required by law and retain them as provided by the General Record Schedule established by the Department of State. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time unless exempted under Chapter 119, Florida Statutes, or as otherwise provided by law. Additionally, the Applicant shall provide the public records at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

The Applicant shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Applicant does not transfer the records to the County.

### **Confidential Information**

During the term of this Agreement or license, the Applicant may claim that some or all of Applicant's information, including, but not limited to, software documentation, manuals, written methodologies and processes, pricing, discounts, or other considerations (hereafter collectively referred to as "Confidential Information"), is, or has been treated as confidential and proprietary by Applicant in accordance with §812.081, Florida Statutes, or other law, and is exempt from disclosure under the Public Record Act. Applicant shall clearly identify and mark Confidential Information as "Confidential Information" or "CI" and the County shall use reasonable efforts to maintain the confidentiality of the information properly identified by the Applicant as "Confidential Information" or "CI."

The County shall promptly notify the Applicant in writing of any request received by the County for disclosure of Applicant's Confidential Information and the Applicant may assert any exemption from disclosure available under applicable law or seek a protective order against disclosure from a court of competent jurisdiction. Applicant shall protect, defend, indemnify, and hold the County, its officers, employees and agents free and harmless from and against any claims or judgments arising out of a request for disclosure of Confidential Information. Applicant shall investigate, handle, respond to, and defend, using counsel chosen by the County, at Applicant's sole cost and expense, any such claim, even if any such claim is groundless, false, or fraudulent. Applicant shall pay for all costs and expenses related to such claim, including, but not limited to, payment of attorney fees, court costs, and expert witness fees and expenses. Upon completion or termination of this Agreement, the provisions of this paragraph shall continue to survive. Applicant releases the County from claims or damages related to disclosure by County.

**Project Completion:** Upon completion of, or in the event this Agreement is terminated, the Applicant, *when acting on behalf of the County* as provided under §119.011(2), Florida Statutes, shall transfer, at no cost, to the County all public records in possession of the Applicant or keep and maintain public records required by the County to perform the service. If the Applicant transfers all public records to the County upon completion or

termination of the Agreement, it must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Applicant keeps and maintains public records upon the completion or termination of the Agreement all applicable requirements for retaining public records shall be met. All records stored electronically shall be provided to the County, upon request from the Counties custodian of public records, in a format that is compatible with the information technology systems of the County.

**Compliance** If the Applicant fails to provide the public records to the County within a reasonable time, the Applicant may be subject to penalties under §119.10, Florida Statutes.

**IF THE APPLICANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE APPLICANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE VISITORS AND CONVENTION BUREAU AT E-MAIL [kmunden@alachuacounty.us](mailto:kmunden@alachuacounty.us). PHONE AT (352) 374-5231, OR MAIL AT 33 North Main Street, GAINESVILLE, FL 32601**

**Permits.** The Applicant will obtain and pay for all necessary permits, permit application fees, licenses or any fees required to perform its obligations under this Agreement.

**Laws & Regulations.** The Applicant will comply with all laws, ordinances, regulations, and building code requirements applicable to the Event and all requirements of this Agreement. The Applicant is presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect this grant award and this Agreement. If the Applicant is not familiar with state and local laws, ordinances, code rules and regulations, the Applicant remains liable for any violation and all subsequent damages or fines.

**Indemnification.** The parties, as state agencies, agree to be fully responsible for acts of negligence by its officers, employees or agents, when acting within the scope of their employment or agency, and agrees to be liable for any damages resulting from said negligence, as provided in Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to whom sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties.

Nothing contained herein shall constitute a waiver by either Party of sovereign immunity or the provisions or limits of liability of §768.28, Florida Statutes.

**Successors and Assigns.** The County and Applicant each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement

**Independent Contractor.** In the performance of this Agreement, the Applicant is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or associate of the County. The Applicant is solely responsible for the Event and the means, method, technique, sequence, and procedure utilized by the Applicant to perform of this Agreement.

**Collusion.** By signing this Agreement, the Applicant declares that this Agreement is made without any previous understanding, agreement, or connections with any persons, contractors or corporations and that this Agreement is fair, and made in good faith without any outside control, collusion, or fraud.

**Conflict of Interest.** The Applicant warrants that neither it nor any of its employees have any financial or personal interest that conflicts with the execution of this Agreement. The Applicant shall notify the County of any conflict of interest due to any other clients, contracts, or property interests.

**Third Party Beneficiaries.** This Agreement does not create any relationship with, or any rights in favor of, any third party.

**Severability.** If any provision of this Agreement is declared void by a court of law, all other provisions will remain

in full force and effect.

**Non Waiver.** The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right.

**Governing Law and Venue.** This Agreement is governed in accordance with the laws of the State of Florida. The sole and exclusive venue for any action under this Agreement shall be Alachua County, Florida.

**Attachments.** All exhibits attached to this Agreement are incorporated into and made part of this Agreement by reference.

**Captions and Section Headings.** Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.

**Construction.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the Parties. It is recognized that both Parties have substantially contributed to the preparation of this Agreement.

**Counterparts.** This Agreement may be executed in any number of and by the different Parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via fax or email with pdf attachment by a party or its designated legal counsel of an executed counterpart of this Agreement shall constitute valid and sufficient delivery in order to complete execution and delivery of this Agreement and bind the Parties to the terms hereof.

**Entire Agreement.** This Agreement constitutes the entire agreement and supersedes all prior written or oral agreements, understandings, or representations.