

Clay County Agreement/Contract No. 2022/2023- \_\_\_\_

**TOURIST DEVELOPMENT COUNCIL  
PRODUCT DEVELOPMENT GRANT AGREEMENT  
[City of Green Cove Springs]**

This Tourist Development Council Product Development Grant Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”) by and between Clay County, a political subdivision of the State of Florida (the “County”) and the City of Green Cove Springs, Florida, a municipal corporation (the “Grantee”).

**RECITALS**

**WHEREAS**, the Clay County Tourist Development Council’s (“TDC”) Product Development Grant Program focuses on investing in projects that deliver a solid return on investment to increase Clay County as a tourist destination. The primary goals of both product development and expansion are to positively impact the local economy by growing the number of visits, the length of stay and the spending by visitors, and increase the number of tourism activities, products and experiences within Clay County; and

**WHEREAS**, the TDC’s Product Development Grant Program guidelines, incorporated herein by reference, defines “Product Development” as a new product, attraction, or experience that contributes to the uniqueness of Clay County as a destination whereas “Expansion” is defined as concentrating on creating greater capacity and/or new features of an existing product; and

**WHEREAS**, the Tourist Development Tax Fund (“TDT Funds”) is used to fund Product Development Grants from \$15,000.00 up to \$125,000.00, with an expected dollar for dollar match in cash. Revenue share projects or in-kind match options may be considered and are subject to TDC approval; and

**WHEREAS**, the Grantee submitted an application (“Application”), incorporated herein by reference, to the TDC seeking funding for a Product Development Grant in the amount of \$25,000.00 to assist with costs associated with a Product Development referred to as water dolphin buoy/pier dolphin extensions; and

**WHEREAS**, as part of the water dolphin buoy/pier dolphin extensions Product Development, the Grantee plans to service American Cruise Lines and pursue additional cruise lines for future business (the “Product Development”); and

**WHEREAS**, based upon review of the Application, the TDC recommended awarding a Product Development Grant to the Grantee; and

**WHEREAS**, based on the TDC’s recommendation and the Clay County Board of County Commissioner’s approval of a Product Development Grant in the amount of \$25,000.00, the County hereby awards a Product Development Grant to the Grantee to provide funding for the Product Development from TDT Funds under the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The term of this Agreement shall commence on the Effective Date and shall end on September 30, 2024. Prior to the expiration of the Agreement, the Grantee shall provide the Tourism Division, as indicated below, with proof of completion of the Product Development along with invoice(s) for reimbursement for the Qualified Expenses and proof of the required match. The Agreement may be amended or extended only upon mutual written agreement of the parties.
3. The Grantee agrees to use the TDT Funds awarded under this Agreement only for qualified expenses incurred by the Grantee related to the Product Development as described in the Application which must qualify as a permissible project as outlined in Section 125.0104, Florida Statutes (“Qualified Expenses”).
4. The County agrees to reimburse the Grantee for Qualified Expenses incurred by the Grantee during the term of this Agreement up to the maximum amount of \$25,000.00 upon completion of the Product Development. The Grantee shall match the TDT Funds provided to the Grantee under this Agreement dollar for dollar. Payment(s) for Qualified Expenses will be made within 45 days from receipt of proper invoice and supporting documentation, as described below, in accordance with the Local Government Prompt Payment Act.
5. Upon completion of the Product Development, the Grantee shall be responsible for providing the County with records of expenditures for Qualified Expenses and that document the required match. To be eligible for reimbursement, the Grantee must submit an invoice with supporting documentation to the County’s Tourism & Film Development Division (“Tourism Division”) by Email at Kimberly.Morgan@claycountygov.com or U.S. Mail at P.O. Box 1366, Green Cove Springs, FL 32043 ATTN: Kimberly Morgan. The invoice(s) shall include the following information and supporting documentation:
  - a) The Grantee’s name, address and phone number, including payment remittance address.
  - b) Reference to this Agreement by its title and number as designated by the County.
  - c) Name/Description of the Product Development.
  - d) Total reimbursement amount being requested.
  - e) Proof of payment (i.e., invoice stating payments made and/or product that was purchased and total billed and voided check or bank statement confirming payment) which demonstrates that the requested reimbursement is for Qualified Expenses incurred by the Grantee during the term of this Agreement.
  - f) Documentation to support that the minimum match requirements have been met.
  - g) Copy of photographs, screen shots, etc. that demonstrate completion of the Product Development, as may be applicable.

- h) Any additional documents, records, or information as needed that may be requested by the County.

6. Upon receipt of the invoice, the Tourism Division shall review the invoice and supporting documentation to determine whether the Product Development is as represented in the invoice, is as required by this Agreement, and qualifies as a Qualified Expense. Once the invoice and supporting documentation are reviewed by the Tourism Division, it shall be submitted to Clay County Comptroller's office ("Paying Agent") for processing and payment. If the County determines that the invoice(s) and supporting documentation do not conform with the applicable requirements, the Tourism Division and/or Paying Agent shall notify the Grantee of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the County. If the correction is not timely made or if the correction is unacceptable to the County, the Grantee will not be reimbursed to the extent determined by the County. Payment shall be made only after receipt and approval of the invoice with supporting documentation. Only actual and documented Qualified Expenses shall be reimbursed by the County. Any payment made by the County to the Grantee which is later determined to have been made in error and/or for a non-Qualified Expense must be repaid to the County within forty-five (45) days of receiving such notice.

7. During the Term of this Agreement, the Grantee shall provide a quarterly written report to the Tourism Division regarding the status of the Product Development, which report shall contain the developments, enhancements, or purchases made to date, the time line for remaining developments, enhancements, or purchases to complete the Product Development, and the amount of TDT Funds received to date, if any.

8. The Grantee acknowledges that in the budget for each fiscal year of the County during which the term of this Agreement is in effect, a limited amount of funds are appropriated from the TDT Funds, which are available for Product Development under this Agreement. Any other provisions of this Agreement to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make for all Qualified Expenses under this Agreement from the budget of any fiscal year shall not exceed the County's appropriation in its budget for said fiscal year for Product Development.

9. The Grantee shall defend, indemnify, and hold harmless the County, its directors, officers, employees, and agents, from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs, attorneys' fees, professional fees, or other expenses, arising out of or in any way resulting from the acts or omissions of the Grantee, its directors, officers, employees, or agents, relating in any way to the Product Development and/or the Grantee's performance under this Agreement. The Grantee's duty to defend, indemnify and hold the County harmless specifically does not encompass indemnifying the County for its own negligence, intentional or wrongful acts, omissions or breach of contract. If the Grantee is governed by Section 768.28, Florida Statutes, it shall only be obligated in accordance with that Section. These indemnification obligations shall survive the termination of the Agreement.

10. Neither the County nor any agency or subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, by entering into this Agreement. To

the extent any indemnification by the County or any agency or subdivision of the state may be construed under this Agreement, any such indemnification shall be subject to and within the limitations set forth in Section 768.28, Florida Statutes, and to any other limitations, restrictions and prohibitions that may be provided by law. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

11. The County expressly disclaims any and all responsibility or liability to the Grantee or third persons for the actions of the Grantee or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Agreement and/or the Product Development.

12. Each party will comply with all applicable federal, state, and local laws, regulations, rules, ordinances, orders, and policies concerning the performance of this Agreement.

13. The County will terminate or end this Agreement if the Grantee fails to fulfill its obligations herein. In such event, the County will provide the Grantee a notice of its violation by letter, and shall give the Grantee fifteen (15) calendar days from the date of receipt to cure its violation. If the violation is not cured within the stated period, the County will terminate this Agreement. In the event that the County terminates this Agreement, the Grantee will be reimbursed for any Product Development completed in accordance with this Agreement, prior to the notification of termination, if the County deems this reasonable under the circumstances.

14. The County or the Grantee may terminate the grant in whole or in part when both parties agree that the continuation of the Product Development would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated.

15. The Grantee acknowledges the County's obligation under Art. 1, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, as from time to time amended (together, the Public Records Laws), to release public records to members of the public upon request. The Grantee shall comply with all requirements of Chapter 119, Florida Statutes, to the extent applicable to the records and documents associated with this Agreement. All records and expenditures associated with this Agreement are subject to audit by the County. The Grantee shall maintain all records and expenditures associated with this Agreement for a minimum of five years from the date of final reimbursement made under this Agreement.

**IF GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.**

16. The Grantee shall not assign or otherwise transfer, in whole or in part, any of its rights, duties, or obligations under this Agreement to any other party.

17. No third party beneficiaries are intended or contemplated under this Agreement, and no third party shall be deemed to have rights or remedies arising under this Agreement against either party to this Agreement.

18. The Grantee is an independent contractor under this Agreement. The parties and their personnel will not be considered to be employees or agents of the other party. None of the provisions of this Agreement shall be construed to create, or be interpreted as, a joint venture, partnership or formal business organization of any kind.

19. The Agreement may only be modified or amended by written agreement duly authorized and executed by the parties hereto. No oral agreements or representation shall be valid or binding upon either party.

20. Each of the parties shall cooperate with one another, shall do and perform such actions and things, and shall execute and deliver such agreements, documents and instruments, as may be reasonable and necessary to effectuate the purposes and intents of this Agreement.

21. The parties will attempt to settle any dispute arising from this Agreement through negotiation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary.

22. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation, mediation, or other action proceeding between the parties arising out of this Agreement lies in Clay County, Florida.

23. No waiver by either party of any term or condition of this Agreement will be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different paragraph, subparagraph, clause, phrase, or other provision of this Agreement.

24. This Agreement represents the entire agreement between the parties. No understanding, statement, representation, writing, agreement, course of conduct, or course of action by the parties or the authorized representatives of the parties, which is not expressed in this Agreement, shall be valid.

25. The Agreement may be executed in any number of counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same agreement.

26. The parties agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

[Signatures appear on the following page.]

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on behalf of each as of the date and year first above-written.

**CITY OF GREEN COVE SPRINGS, FLORIDA**

By: \_\_\_\_\_  
Daniel M. Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Erin West, CMC, City Clerk

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
L.J. Arnold, III, City Attorney

**CLAY COUNTY, a political subdivision of the  
State of Florida**

By: \_\_\_\_\_  
Howard Wanamaker  
County Manager on behalf of the  
Board of County Commissioners