

CONTRACT FOR PUBLIC RELATIONS
FOR THE AMELIA ISLAND TOURIST DEVELOPMENT COUNCIL

THIS CONTRACT is made as of this _____ day of _____ 2012, by and between **HAYWORTH CREATIVE**, a Florida corporation, (hereinafter "Consultant") at 700 W. Granada Boulevard, Suite 100, Ormond Beach, Florida 32174, and the **BOARD OF COUNTY COMMISSIONERS, NASSAU COUNTY, FLORIDA**, a political subdivision of the state of Florida, (hereinafter "County").

WHEREAS, the County established **AMELIA ISLAND TOURIST DEVELOPMENT COUNCIL** (hereinafter "AITDC"), by Resolution 88-64, ratified by Ordinance No. 89-31, as amended; and

WHEREAS, the AITDC is responsible for the expenditure of the revenues generated by the tourist development tax, which expenditures shall be consistent with the Amelia Island Development Plan in accordance with the Resolution 88-64; and

WHEREAS, the County wishes to engage a Consultant to provide professional Public Relations services for the AITDC; and

WHEREAS, pursuant to §5.8 of Nassau County Ordinance 2009-09, professional service contracts such as public relations are exempt from the competitive purchasing method of the Nassau County Purchasing Policy, and

WHEREAS, Consultant is agreeable to furnishing such services to the AITDC on the terms hereinafter described.

NOW THEREFORE, in consideration of the foregoing premises, it is mutually agreed by and between the parties hereto as follows:

SECTION 1: SCOPE OF WORK:

- 1.1 Develop and implement a successful national public relations and promotions campaign to attract tourists to Amelia Island, with special emphasis on increasing lodging occupancy (the "Integrated Public Relations Plan") including but not limited to:
 - 1.1.1 Media development through the creation and distribution of press releases and the fulfillment of media requests
 - 1.1.2 Copy writing and editing for a monthly e-newsletter for the leisure market.
 - 1.1.3 Leveraging of advertising buys for editorial exposure.
 - 1.1.4 Review of all collateral to monitor and maintain the brand message.
 - 1.1.5 Creation and distribution of press announcements for special events.
 - 1.1.6 Creation and submission of monthly activity and publicity reports.

- 1.2 As the approved budget allows, Consultant will conduct a variety of proactive programs and activities designed to secure positive media exposure for Amelia Island and its various travel experiences. These programs and activities may include:
 - 1.2.1 Update/provide new material for the press kit.
 - 1.2.2 Write and distribute news releases to key media contacts within targeted publication groups, with aggressive follow-up to secure editorial coverage for the destination.
 - 1.2.3 Coordinate and execute individual and group media trips to the destination.
 - 1.2.4 Work with existing island event coordinators to maximize potential for media coverage; identify new event opportunities.
 - 1.2.5 Conduct media missions and special media briefings in key origin markets; attend VISIT FLORIDA media reception events on behalf of the AITDC.
 - 1.2.6 Pursue opportunities to host magazine photo shoots on Amelia Island.
 - 1.2.7 Identify and secure consumer promotions in print, broadcast and electronic media outlets, as well as retail outlets.
 - 1.2.8 Target established travel blogs with appropriate destination information; organize podcasts.
 - 1.2.9 Provide press releases, press kits, and/or photography for distribution to journalists at trade shows attended by AITDC team and/or industry members.
 - 1.2.10 Work with the appropriate island and industry representatives to provide accurate communication to the press in a timely manner in the event of a natural or manmade disaster.
 - 1.2.11 Identify various local and target market venues for storytellers to share historical narratives.
 - 1.2.12 Assist in updating and enhancing the current media page for the destination website; monitor VISIT FLORIDA's and other appropriate destination marketing organization consumer and trade sites for destination inclusion.
 - 1.2.13 Gather and review appropriate editorial calendars; respond to any relevant media leads from VISIT FLORIDA and other reliable sources.
 - 1.2.14 Respond to inquiries from media with the appropriate information, photography, and other resources.
 - 1.2.15 Maintain up-to-date local, regional, state and national media lists for use in the proactive distribution of printed and promotional materials to key media outlets
 - 1.2.16 Conduct an annual gathering of area tourism marketing and PR professionals to discuss upcoming activities and events for the coming fiscal year.

- 1.3 Coordinate existing cooperative marketing opportunities and develop additional cooperative marketing opportunities, subject to the County's prior approval.
- 1.4 Contract and supervise subconsultants at County's expense only upon request by the County, to provide research and other promotional services, and integrate the performance of such contracts into the overall marketing plan of the AITDC, developed by the Consultant. Subconsultants for these purposes shall be chosen by, or subject to the prior approval of the County and/or its Marketing Committee, which approval shall not be unreasonably withheld or delayed. The Consultant shall use its commercially reasonable best efforts to negotiate subcontract provisions that allow the Consultant to cancel or modify any subcontract work in progress being conducted for the account of the County, predicated upon payment to the subconsultant for work and services performed through the effective date of the cancellation or modification.
- 1.5 Attend all AITDC meetings and such other meetings requested by AITDC and/or its designee.
- 1.6 The Consultant shall obtain the County's prior approval of all services rendered under the terms herein.
- 1.7 County shall have the right to modify, reject, cancel or discontinue any work in progress and any related agreements or commitments entered into by Consultant on County's behalf, subject to applicable notice periods. In which event, the Consultant will be entitled to full payment for all charges incurred in connection with such work performed in advance to the modification, rejection, cancellation, or discontinuance in accordance to the terms and conditions stated hereunder.

SECTION 2: AGENCY COMPENSATION

- 2.1 The County agrees to pay Consultant as compensation for Public Relations Services as described herein, a monthly Professional Fee of Six Thousand and no/100 Dollars (\$6,000.00), equal to no fewer than forty (40) hours of service.
- 2.2 The Consultant shall bill and the County shall pay for services rendered as follows:
 - 2.2.1 The Consultant shall provide monthly statements along with supporting documentation, in such form as the County may reasonably direct to suffice its

auditing obligations. Such documentation shall include a detailed summary of expenses, proof of performance and copies of original invoices.

- 2.2.2 The County shall pay all such monthly statements within forty-five (45) days of receipt by the County pursuant to the Florida Prompt Payment Act. Payment shall be made by U.S. mail to the address for Consultant indicated herein. Payments not made with forty-five (45) days from rendition of statement shall bear interest at the legal rate, provided that no interest shall accrue on any portion of a statement that is questioned in good faith by the County or its designee.

- 2.3 **Purchases Made by Agency for County.** Any purchases of goods or services made by the Consultant on behalf of the County shall be billed to the County at net purchase price with specific detail of any fee if prescribed under this contract. Purchase order approval is required by the County prior to placement of orders over \$750.00.

All bills associated with the Consultant's production costs, such as color copies, color separations, scans, photography and printing, or other work on behalf of the AITDC performed outside the agency of record, shall be paid by the Consultant and billed to the AITDC on a "net basis". Travel to and from Nassau County, and expenses incurred while in Nassau County, are the responsibility of the Consultant, and are not reimbursable.

TERMS AND CONDITIONS

- 3.1 **Rules, Regulations, Laws, Ordinances, & Licenses.** The Consultant shall observe and obey all laws, ordinances, rules, and regulations of the federal, state, and County Government, which may be applicable to the service being provided. The Consultant shall have or be responsible for obtaining all necessary permits or licenses required in order to provide this service.
- 3.2 **Independent Consultant.** The Consultant is an independent Consultant and is not an employee or agent of Nassau County, the Amelia Island Tourist Development Council or the Amelia Island Convention & Visitors Bureau. This contract does not obligate or commit the Nassau County, AITDC, or AICVB to any external third party for the payment of any money.
- 3.3 **Contingent Fees Prohibited.** The Consultant warrants that it has not employed or retained a company or person, other than a bona fide employee, consultant or sub-

consultant, working in its employ, to solicit or secure a contract with the County and that is has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee, consultant or sub-consultant, working in its employ any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of a contract with the county.

- 3.4 **Property Rights.** All concepts, slogans, or plans submitted or developed by the Consultant for AITDC during the term hereof, whether or not used, and any and all layouts, copy, artwork, films, digital images, web designs and functionality as well as other tangible material which the Consultant prepares for AITDC or purchases for its account pursuant to a public relations or promotional campaign for AITDC, are the County's property exclusively, provided that the County has paid the invoices rendered thereof, if any, except copyright material and talent purchased for the County shall be subject to the property rights of the third party owners, and the County shall only obtain the use of such material for the time periods for which it has been purchased (e.g., the use of art, photographs, and talent may require an annual payment for continued use). There shall be no additional compensation for the rights and property granted under this subparagraph.

All contracts for the acquisition or use of materials and properties and for the employment of talent shall be entered into and signed by the Consultant for the County to the end that all materials, properties and rights obtained by virtue of such contracts shall become the property of the County. The County understands and acknowledges that the rights to use copyrighted material and talent are for specific periods of time, and that renewal or extension payments are required to use the material and talent for longer periods. The Consultant may only deliver such materials and talent for the period of time for which the use has been purchased.

All tangible and intangible property acquired in conjunction with the purchase of paid public relations for AITDC shall be the property of the County and shall be used exclusively by the Consultant for promotion of Amelia Island tourism on behalf of AITDC. The County reserves the right of final approval of the disposition of said property.

- 3.5 **Duration and Termination.** This Agreement shall commence on October 1, 2012, and shall continue through, September 30, 2017. Two (1) one-year extensions may be granted on this contract to the Consultant upon recommendation by the AITDC and the AITDC's

recommendation to the County and the County's subsequent approval. To provide for a smooth continuation of services, the County agrees to make its decision no later than July 31, 2017.

This Contract may be terminated by the County, with or without cause, immediately upon written notice to Consultant. Unless the Consultant is in breach of the agreement executed, the Consultant shall be paid for services rendered to the County's satisfaction through the date of termination. After receipt of a Termination Notice and, except as otherwise directed by the County, the Consultant shall:

- A. Stop work on the date to the extent specified.
- B. Terminate and settle all orders and subconsultants relating to the performance of the terminated work.
- C. Transfer all work in progress, completed work, and other material related to the terminated work to the County.

3.6 **Availability of Funds.** The County's performance and obligation to pay under this Contract is contingent upon the collection of bed taxes. In the event the collection and allocation of bed taxes upon which this Contract is dependant are withdrawn, this Contract is terminated, and the County has no further liability to Consultant beyond that already incurred by the termination date.

The County hereby covenants to budget and appropriate from legally available funds. The parties hereby understand and agree that no ad valorem taxes are pledged to secure this Contract.

3.7 **Indemnification.** The Consultant shall at its own costs during the entire terms of this contract maintain continuously in force a professional liability policy for the benefit of the County in the minimum amount of One Million Dollars (\$1,000,000.00). In the event insurance is not available in that amount, the Consultant shall not commence performance of this Agreement until such time that insurance coverage or a mutually satisfactory alternate arrangement is in full force and effect.

The Consultant shall indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or

intentionally wrongful conduct of the Consultant and any persons employed or utilized by the consultant in the performance of the agreement.

- 3.8 **Equal Employment.** In accordance with Federal, State and Local law, the Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin or handicap.
- 3.9 **Assignment and Delegation.** Neither party may assign any rights or delegate any duties under this Agreement without the express prior written consent of the other party.
- 3.10 **Prompt Payment Act.** Payments will be made within forty-five (45) days from receipt of the invoice, pursuant to Florida's Prompt Payment Act, Florida Statutes, Section 218.74.
- 3.11 **Federal and State Tax.** The County is exempt from payment of Florida State and Use Taxes and will provide a copy of the County's exemption certificate if requested. The Consultant shall not be exempted from paying tax to their suppliers for materials used to fulfill contractual obligations with the county, nor is the Consultant authorized to use the county's Tax Exemption Number in securing such materials. The Consultant shall be responsible for payment of his/her own FICA and Social Security benefits.
- 3.12 **Governing Laws/Venue:** All contractual arrangements hereunder shall be consistent with, and be governed by, the ordinances of Nassau County, the laws of the State of Florida, both procedural and substantive, and applicable federal statutes, rules and regulations. Any and all litigation arising under any contractual arrangement shall be brought in the appropriate court in Nassau County, Florida.
- 3.13 **Conflict of Interest.** The Consultant represents that it presently has no interest and shall acquire no interest, either direct or indirect, with the County or Convention & Visitors Bureau, which would conflict in any manner with the performance of services required. The Consultant further represents that no person having any interest shall be employed for said performance.

The Consultant shall promptly notify the County in writing by certified mail of any potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the Consultant's judgment or quality of services being provided. Such written notification shall identify the

prospective business association, interest or circumstance, the nature of work the Consultant may undertake and request an opinion of the County, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by the Consultant.

The County agrees to notify the Consultant of its opinion by certified mail within thirty (30) days of receipt of notification by the Consultant. If, in the opinion of the county, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the County shall so state in the notification and the Consultant shall, at his/her option enter into said association, interest, or circumstance, and it shall be deemed not in conflict of interest with respect to services provided to the County by the Consultant.

- 3.14 **Public Entities Crimes.** A person or affiliate who has been placed on the convicted vendors list following a conviction for public entity crime may not contract to provide any goods or services to a public entity, may not contract with a public entity for the construction or repair of a public building or public work, may not contract for the leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subconsultant, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By its execution the Consultant certifies that they are qualified to do business with Nassau County in accordance with Florida Statutes.
- 3.15 **Acceptance of Services.** Receipt of service shall not constitute acceptance. Final acceptance and authorization of payment shall be given only after a thorough inspection indicates that the performance meets specifications and or all conditions. Should the delivered service differ in any respect from specifications, payment will be withheld pursuant to Florida Statutes, Section 218.76, until such time as the supplier takes necessary corrective action.
- 3.16 **Deviations from Specifications.** The Consultant shall clearly indicate, as applicable, all areas in which the services proposed do not fully comply with the requirements of this Contract. The decision as to whether an item fully complies with the stated requirements rests solely with Nassau County.

- 3.17 **Disputes.** Any dispute arising under this Contract shall be addressed by the representatives of the County and the Consultant as set forth herein. Disputes shall be set forth in writing to the County Manager with a copy to the AITDC Managing Director or Consultant, depending on which party initiates the dispute, and provided by overnight mail, UPS, FedEx, or certified mail. A response shall be provided in the same manner prior to the initial meeting with the County Manager, the AITDC Managing Director (or their designee), and a representative of the Consultant. This initial meeting shall take place no more than thirty (30) days from the written notification of the dispute addressed to the County Manager.

If the dispute is not settled at the initial meeting, the County Manager shall immediately notify the County Attorney. The AITDC Managing Director (or his/her designee), the County Attorney, the County Manager, and the AITDC Managing Director (or their designee(s)) shall meet with the Consultant's representative(s) within thirty (30) days of the County Manager's notification to the County Attorney of the continued dispute.

If there is no satisfactory resolution, the claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, shall be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen by the County and the cost of mediation shall be borne by the Consultant. If either party initiates a Court proceeding, and the Court orders, or the parties agree to, mediation, the cost of mediation shall be borne by the Consultant. Consultant shall not stop work during the pendency of mediation or dispute resolution. No litigation shall be initiated unless and until the procedures set forth herein are followed.

- 3.18 **Retention of Records /Access and Audits.** The Consultant shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of work. The County and the Clerk of Court shall have access to such books, records, and documents as required in this Section for the purpose of inspection or audit during normal business hours, at the County's or the Clerk's expense, upon five (5) days' written notice.

All records in any manner whatsoever assigned to the project, or any designated portions thereof, which are in the possession of the Consultant or the Consultant's sub-consultants, shall be made available, upon request by the County, for inspection and copying upon written request of the County. Additionally, said records shall be made available, upon

request by the County to any state, federal or other regulatory authorities and any such authority may review. Said records include, but are not limited to, all submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings which document the project. Said records expressly include those documents reflecting the time expended by the Consultant and its personnel in performing the obligations of this Contract and the record of expenses incurred by the Consultant in its performance under said contract.

The Consultant shall maintain and protect those records for no less than three (3) years after final completion of the contract, or for any longer period of time as may be required by applicable law.

3.19 **Gift Clause Per Nassau County.** No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any County employee, official, elected or appointed.

3.20 **Notices.** All notices pertaining to this Contract shall be set forth in writing and transmitted either by personal hand delivery or through the U.S. Postal Service by certified mail; return receipt requested to the following listed persons:

Nassau County Board of County Commissioners
ATTN: County Manager
96135 Nassau Place, Suite 1
Yulee, Florida 32097

Amelia Island Tourist Development Council
ATTN: Gil Langley, CAE, Managing Director
402B Centre Street
Amelia Island, Florida 32034

Hayworth Creative
ATTN: _____

- 3.21 **Force Majeure.** If either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of (or if failure to perform is caused by) acts of God, natural disaster, actions or decrees of governmental bodies or communication line failure not the fault of the affected party or terrorism (each a "Force Majeure Event"), the affected party shall notify the other party and exercise commercially reasonable efforts to resume performance. Upon receipt of such notice, this Agreement shall be immediately suspended. If the period of non-performance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, immediately terminate this Agreement, subject to the obligations of payment, indemnification, and delivery of materials, all of which shall survive termination.
- 3.23 **Modification.** This writing contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth. No agent, employee, or other representative of either party is empowered to alter the terms of this Agreement, unless done in writing and signed by authorized officers of the Agency and the County.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed on this _____ day of _____, 2012.

**BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA**

ATTEST AS TO CHAIRMAN'S
SIGNATURE

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney

DAVID A. HALLMAN

DANNY B. LEEPER
Its: Chairman

ATTEST:

HAYWORTH CREATIVE

(Corporate Secretary)

Signature of President/Owner

Type/Print Name

Type/Print Name

(CORPORATE SEAL)

Date: _____