

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 11/25/2020

Contract/Lease Control #: C21-3019-BCC

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: DESTIN CHAMBER OF COMMERCE

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 11/16/220

Expiration Date: 12/30/2020

Description of: COVID BEST PRACTICES DESIGNATION PROGRAM

Department: BCC

Department Monitor: HOFSTAD

Monitor's Telephone #: 850-651-7515

Monitor's FAX # or E-mail: JHOFSTAD@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS

Okaloosa County Chamber Agreement
COVID "Best Practices" Designation Program
Contract No. C21-3019-BCC

This Agreement in relation to a COVID "Best Practices" Designation Program ("Agreement") is entered into and effective on this 16th day of November, 2020 ("Effective Date") by and between Okaloosa County, a political subdivision of the State of Florida ("County") and DESTIN Chamber of Commerce, Inc., a Florida Not for Profit Corporation ("Chamber").

RECITALS

WHEREAS, on January 30, 2020, the World Health Organization declared a public health emergency of international concern related to COVID-19; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared that a public health emergency exists nationwide as a result of confirmed cases of COVID-19 in the United States (which has been renewed on April 21, 2020 and on July 25, 2020); and

WHEREAS, the Centers for Disease Control and Prevention recommends that all states and territories implement aggressive measures to slow and contain transmission of COVID-19 in the United States of America; and

WHEREAS, on March 27, 2020, Congress passed and President Donald J. Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which established a new Coronavirus Relief Fund ("CARES Act Fund") allocated to governments in states, territories, and tribal areas to use for expenditures incurred due to the COVID-19 public health emergency; and

WHEREAS, on June 10, 2020, Governor Ron DeSantis announced the State of Florida's plan to disburse CARES Act Fund payments to counties with a population below 500,000, which included Okaloosa County; and

WHEREAS, amounts paid from the CARES Act Fund are subject to the restrictions outlined in the U.S. Department of the Treasury's Guidance and set forth in section 601(c) of the Social Security Act, as added by section 5001 of the CARES Act; and

WHEREAS, the State of Florida and Okaloosa County are experiencing an ongoing threat to the personal health and welfare of the residents of Okaloosa County due to the outbreak of COVID-19; and

WHEREAS, local businesses have been negatively affected by COVID-19 and have suffered financial loss due to business interruption caused by required closures or business reduction resulting from COVID-19 and due to loss of consumer confidence in the marketplace

as a result from COVID-19; and

WHEREAS, the County desires the Chamber to provide services to manage and administer a local resiliency program to designate and promote local businesses meeting certain COVID-19 standards and publicize the resumption of activities in the County and steps taken to protect the public, thereby generating economic activity and restoring consumer confidence, while mitigating the risks associated with the COVID-19 Pandemic; and

WHEREAS, the Chamber is a non-profit organization that provides similar services in the County, including, but not limited to, developing and promoting programs that provide services and support to local businesses; and

WHEREAS, the services under this Agreement will be paid by the County to the Chamber from a portion of the funding provided to the County from the CARES Act Fund; and

WHEREAS, these services are necessary expenditures incurred due to the public health emergency with respect to COVID-19; were not accounted for in the County's FY 2020 or FY 2021 budget; and will be incurred prior to December 30, 2020; and

WHEREAS, the parties desire to enter into this Agreement to provide for these services in compliance with the CARES Act.

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. Program and Services:

1.1. The Chamber shall administer and manage the day-to-day of a local resiliency program designated as the COVID "Best Practices" Program (the "Program"). The COVID "Best Practices" designation sticker that will signify a local business has met certain safety and sanitization COVID-19 standards in-line with CDC and State guidelines and has agreed to dedicate resources to maintain this standard. To receive the designation, a local business must complete an application, meet certain required standards and criteria, pass an inspection, qualify for the Program, and be approved. The business will also be listed on the Chamber website and receive a safety and marketing checklist to help with practicing COVID-19 protocols.

The COVID "Best Practices" designation sticker can be displayed on a businesses' door and advertised to consumers. The Program will be limited to a maximum of 200 businesses per Chamber designated/certified under the Program for fee reimbursement. The Chamber agrees to provide at its own cost and expense any additional certifications on an as needed basis during the time period of the program. Applications for the Program designation will be reviewed by the Contractor, will be processed in the order they are received, and will be accepted no later than December 20, 2020, or until all CARES Act funding allocated to the Program has been distributed, whichever occurs first.

1.2. In relation to the Program, the Chamber will provide the Services summarized in Section 1.1 and specified herein below:

- A. COVID "Best Practices" Designation Program: The Chamber shall administer and manage the Program. The Chamber shall receive and review applications and conduct an inspection of businesses to determine if a business is eligible and complies with the Program requirements. If a business is approved, the Chamber shall work with the business to award the business the COVID "Best Practices" designation sticker. The Chamber shall be responsible for tracking the applications and approval process.
- B. The lead Chamber shall designate the COVID "Best Practices" designation sticker working with the other Chambers. The Chamber must work with the County PIO and local media in the education outreach about the program.
- C. Program Staffing and Management: The Chamber shall provide the staff, technology, and collaterals to promote and manage the Program. The Chamber shall secure any necessary staffing to meet with business, perform required inspections and all other aspects of the Program.
- D. Website Creation and Management: The Chamber must create and manage a website for the Program. The website shall include information about the Program and how a business can apply. The website must provide the Program requirements and criteria, including, but not limited to, Program guidelines, information and documents that a business must provide, and any necessary forms including a request for inspection form that must be completed. The website must also include a list of businesses that have received the COVID "Best Practices" designation sticker.
- E. Advertisement: The Chamber must provide and manage advertisement of the Program via the website discussed above along with press releases, Facebook posts and any necessary digital advertising to advertise the Program to both businesses and consumers.
- F. Education: The Program must include an education component to ensure citizens receive information about the Program and can obtain a list of businesses that have received the Program designation. The Chamber shall develop this education component and shall ensure this information is available to its members and the general public.
- G. Reports: The Chamber shall provide a final week report to the County summarizing the Services performed, tracking all businesses who have applied for the Program, identifying all businesses approved under the Program, and identifying all pending applications and inspections.

H. Meetings: The Chamber must meet with the County Representatives as needed and as requested by the County Representatives to review the status and progress of the Program.

1.3. For purposes of this Program, the County Representative will be Craig Coffey, Deputy County Administrator. The Chamber Director shall be the Chamber Representative for purposes of this program.

2. Term: The term for this Agreement will begin on the Effective Date and will end on December 30, 2020, unless terminated earlier.

3. Termination of Services:

3.1. The County may terminate this Agreement at any time for cause upon discovery that any of the information provided by the Chamber is inaccurate, that the terms and conditions of this Agreement have been violated, that the payments are not being used for eligible expenses under the CARES Act, lack of compliance with applicable rules, laws and regulations, and failure to perform on time.

3.2. The County may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with the further expenditure of CARES Act Funds, by providing the Chamber with ten (10) calendar days prior written notice.

3.3. The parties may agree to terminate this Agreement for their mutual convenience through a written amendment. The amendment will state the effective date of the termination and the procedures for proper close-out of this Agreement.

3.4. In the event this Agreement is terminated, the Chamber will not incur new obligations for the terminated portion of this Agreement after it has received the notification of termination. The Chamber will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. However, the County shall be responsible for payment for any Services that have been performed by the Chamber through the date of termination. The Chamber shall deliver to the County all documents, including, but not limited to, reports, notes, records, data, summaries, files, and such other information and materials as may have been accumulated by the Chamber and/or prepared on behalf of the County in relation to this Agreement, whether completed or in progress. The Chamber will not be relieved of liability to the County because of any breach of this Agreement by the Chamber.

4. Payment:

4.1. As payment for the Services provided by the Chamber under the Agreement, the County agrees to pay the Chamber a total amount not to exceed amount of \$20,100.00. The Chamber would receive a flat rate of \$150 per designation for the first 70

businesses and \$120 for the next 80 businesses up to the not-to-exceed amount. The Chamber would be expected to provide every business certification thereafter up to the end of the calendar year, without additional reimbursement by the County. The Chambers would also be expected not to charge businesses a fee for this program, and to do this for members and non-members alike within their assigned area. If approved, the program would run for half of the month of November and all of December, 2020.

4.2. Any payments by the County to the Chamber other than the lead chamber initial disbursement shall be on a reimbursement basis upon receipt of proof and documentation from the Chamber that businesses have qualified for the Program and received the COVID "Best Practices" designation sticker and that the Services are being performed by the Chamber in accordance with this Agreement. Invoices to the County for reimbursement shall identify the businesses that have received the COVID "Best Practices" designation under the Program during the invoiced time period along with supporting documentation to allow the County to perform any pre-audit functions as required by law. Only actual, documented businesses related to the Program shall be reimbursed by the County. The Chamber must provide any additional records, updates, or information as needed that may be requested by the County. The County shall pay the Chamber in accordance with the Local Government Prompt Payment Act.

4.3. A partial billing may be submitted by the Chamber after November 30th, 2020 of up to 50% of the maximum allowable amount for each Chamber (\$20,100). The Program will be limited to a maximum of 150 businesses per Chamber designated/certified under the Program. The Chamber will provide at its own cost and expense additional designation thereafter on as needed basis through December 30, 2020. A final billing and report shall be submitted to County prior to December 25th, 2020.

4.4. Administrative costs and expenses of Chamber, including but not limited to, telephone, facsimile, travel, per diem, courier service, or copying expenses are not reimbursable under this Agreement.

4.6. If all required requests, records, and any necessary certifications are not provided to the County or are not completed in a manner acceptable to the County, the County may withhold further payments until they are completed or may terminate this Agreement.

5. Additional Services and Fees for Lead Chamber:

5.1 The County hereby designates the Ft. Walton Beach Chamber as the lead chamber to develop all aspects of the program and work with the other Chambers to get the Program fully operational countywide. The lead chamber would handle setting up the program, determining criteria, training, stickers advertising and certification measures modeled after similar programs in the State of Florida.

5.2 The lead Chamber would receive up addition flat compensation of \$12,000 to provide this service plus up to another \$2,600 in reimbursable expense for program expenses including but not limited to: designation stickers, advertising, poster/printing, etc. The lead Chamber may receive up to 66% of this fee (\$8,000) in advance up submittal of an invoice to the County. The

remainder of the Lead Chamber fee and valid program expenses shall be paid upon completion of the Program with final invoicing, to include any valid expenses for reimbursement with proper documentation/attestation.

6. Audit and Retention of Records:

6.1. All records, expenditures, and payments are subject to examination and/or audit by the County, the Florida Division of Emergency Management (the "Division"), the Florida State Auditor General (or designee), and the United States Department of Treasury's Inspector General.

6.2. The Chamber must keep records sufficient to demonstrate that the payment for the Services is in accordance with the CARES Act, and the Chamber must make the records available upon request.

6.3. In addition, the County may monitor the performance and financial management by the Chamber throughout the term of this Agreement to ensure timely completion of the Services.

6.4. All records connected with this Agreement must be retained for a period of at least five (5) years following the date of final payment and close-out of all pending matters. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes.

7. Repayment of CARES ACT Funds:

7.1 If the Agreement is terminated for cause, or the Chamber fails to submit the records in compliance with this Agreement, or a review of the records or an audit shows that all or any portion of the funds disbursed were not spent on eligible expenses in accordance with the conditions of and strict compliance with this Agreement, the Chamber will be held liable for repayment to the County and/or the Division of all funds not spent in accordance with this Agreement and/or the CARES Act within thirty (30) days after the County has notified the Chamber of such non-compliance.

8. Mandated Conditions and Other Laws:

8.1. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Contractor.

8.2. The Chamber must review and execute the CARES Act Fund Attestation and Certification Regarding Lobbying attached and incorporated herein by reference as **Attachment B** and **Attachment C**, respectively.

8.3. If applicable to the Services provided under this Agreement, the Chamber shall comply with all federal, state, or local rules, regulations or ordinances, including but not limited to all CARES Act requirements, FEMA clauses, and HUD clauses which are

incorporated by reference and set forth in Attachment D. Any express reference in this Agreement to a particular state, rule, or regulation in no way implies that no other statute, rule, or regulation applies. Any violation of these laws, rules, and regulations shall constitute a material breach of this Agreement and shall entitle the County to terminate this Agreement.

8.4. Performance under the Agreement is subject to 2 C.F.R. Part 200, entitled "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards," including Appendix II.

8.5. All expenditures of state or federal financial assistance must be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.

8.6. If the Contractor, with the funds authorized by this Agreement, enters into any contracts or agreements with any third parties, vendors, subcontractors, etc., then any such contract or agreement must include the criteria and provisions in this Agreement and attach and incorporate Attachments B, C, and D to any contract or agreement.

9. Public Records: The Chamber 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 Chamber shall comply with all requirements of Chapter 119, Florida Statutes, to the extent applicable to the records and documents associated with this Agreement.

IF THE CHAMBER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, **FLORIDA STATUTES**, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON STREET, SUITE 301, CRESTVIEW, FL 32536 PHONE: (850) 689-5977, RISKINFO@MYOKALOOSA.COM,

10. Indemnification: The Chamber shall promptly defend, indemnify, hold the County harmless from and pay all demands, claims, judgments, liabilities, damages, fines, fees, taxes, assessments, costs, losses, penalties, attorney's fees and suits of any nature or kind whatsoever caused by, arising out of or related to the Contractor's performance or breach of this Agreement. With respect to any indemnification by the County provided 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, and shall not be deemed to operate as a waiver of the County's sovereign immunity. The Contractor'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. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing herein will be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

11. Insurance: The Chamber must secure and maintain in effect at all times during the term of this Agreement liability and other appropriate forms of insurance. Anything in this Agreement to the contrary notwithstanding, the liabilities of the Chamber under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Neither approval nor failure to disapprove insurance furnished by the Chamber shall relieve the Chamber from the responsibility to provide insurance.

12. Notice: All notices given under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) two days after having been delivered to Federal Express, UPS, Airborne or another recognized overnight courier or delivery service, or (c) five days after having been deposited into the United States mail, by registered or certified mail, return receipt requested, postage prepaid, to the respective parties at their respective addresses set forth below:

If to Contractor: <i>Destin</i> Chamber of Commerce Attention: <i>SHARIE MOODY</i>	If to County: Okaloosa County 1250 N. Eglin Parkway, Suite 102 Shalimar, FL 32579 Attention: Craig Coffey, Deputy County Manager
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13. Taxes: In that the County is a governmental agency exempt from sales and use taxes, the County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. The County shall provide proof of its exempt status upon reasonable request. The Chamber is fully responsible for any and all tax consequences of receiving payment.

14. Relationship: Nothing herein shall constitute or be construed to create or suggest any type or kind of employment, partnership, joint venture, or other legal relationship, express or otherwise, between the parties. The Chamber is an independent Chamber and is not an employee, agent, joint-venture, or partner of the County. The County's sole role is to fund, via this grant agreement, a Chamber initiative proposed by this program. The Chamber shall have the responsibility to make sure there is clarity that the County is not operating or endorsing the program to include not utilizing the County logo or County government in all materials related to the program.

15. Governing Law and Venue: 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 Okaloosa County, Florida.

16. Severability: If any provisions of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

17. No Assignment and No Subrecipient: The Chamber shall not assign any of its rights or duties under this Agreement to any other party without the prior written consent of the County, which consent may be withheld by the County for any or no reason. Any such assignment attempted by the Chamber without such prior written consent shall be null and void. If the Chamber attempts to assign any such rights or duties without securing such prior written consent, this Agreement may be declared terminated by the County.

18. No Third-Party Beneficiaries: This Agreement shall not create any rights or benefits to parties other than the County and the Contractor.

19. Conflict of Interest: Throughout the term of this Agreement, the Chamber must not accept nor perform any other employment, assignments of contracts nor obligations that would conflict with the Contractor's duties and obligations provided under this Agreement.

20. Remedies: Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement, and to avail itself of all remedies available to it arising at law or in equity for the breach of this Agreement. Remedies are mutually available, and include damages and specific performance, as appropriate.

21. Amendment, Changes or Modification: The Agreement may only be modified, changed or amended upon mutual written agreement of the County and the Contractor. No oral agreements or representation shall be valid or binding upon either party. No alteration or modification of the Agreement terms shall be valid or binding against the County. The Chamber may not unilaterally modify the terms of the Agreement by affixing additional terms or by incorporating additional terms onto the Contractor's records forwarded by the Chamber to the County.

22. Further Assurances: 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 purpose and intent of this Agreement.

23. Attorneys' Fees: In the event of any action or administrative proceeding between the parties arising under this Agreement, the prevailing party will be entitled to an award of reasonable attorneys' fees, costs, and expenses, including such fees, costs, and expenses incurred by the prevailing party in the pursuit of any appellate proceedings, regardless of whether such action or administrative proceeding is pursued before any state or federal court or agency.

24. Waiver: No waiver by the County of any breach of any provision of this Agreement by the Chamber shall constitute a waiver of any other breach of either the same provision or of any other provision by the Contractor. The failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof or any other provisions.

25. Headings: The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of any or all of the provisions hereof.

26. Counterparts: The Agreement may be executed in one or more 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.

27. Lobbying Prohibition Per Section 216.347, Florida Statutes: By signing this Agreement, the parties certify that the funds provided pursuant to this Agreement shall not be used for the purpose of lobbying the Legislature, the judicial branch, or a state agency. The parties further certify that no Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or an employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

28. Attachments: All attachments to this Agreement are incorporated by reference as if set out fully herein.

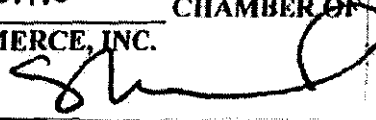
29. Certification: By signing this Agreement, the parties certify to the best of their knowledge and belief that the Services addressed in this Agreement are necessary expenditures incurred due to the COVID-19 public health emergency; that no other reimbursement or payment from the federal government, insurance or any other source is available for these expenditures; these expenditures were (or will be) incurred during the period that begins on March 1, 2020 and ends on December 30, 2020; and these expenditures will be used for the purposes and objectives set forth in the terms and conditions of this Agreement and the CARES Act and related guidance.

30. Authority: Each person signing on behalf of the parties to this Agreement represents and warrants that he/she has full authority to execute the Agreement on behalf of such party and that this Agreement will constitute a legal and binding obligation of such party. The parties are aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject them to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise (U.S. Code Title 18, Sections 3729-3730 and 3801-3812).

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf by their duly authorized representatives, all as of the date and year first written above.

DESTIN CHAMBER OF
COMMERCE, INC.

By: 
Print Name: SHANON MOWDY
Print Title: PRESIDENT & CEO

OKALOOSA COUNTY, a political subdivision
of the State of Florida


John Helstad
County Administrator