

FIRST AMENDMENT AND SUPPLEMENT TO THE
REIMBURSEMENT AGREEMENT FOR
FUNDING OF
2017 WORLD ROWING CHAMPIONSHIPS EVENT

CONTRACT NO. 2017-24

BCC APPROVED 7-11-17

THIS FIRST AMENDMENT AND SUPPLEMENT TO THE REIMBURSEMENT AGREEMENT ("First Amendment") is made and entered into as of July 11, 2017, by and among Manatee County, a political subdivision of the State of Florida (hereinafter "Manatee County"), Sarasota County, a political subdivision of the State of Florida (hereinafter "Sarasota County" and, collectively with Manatee County, "Counties", or individually, a "County"), and Suncoast Aquatic Nature Center Associates, Inc., a Florida non-profit corporation (hereinafter, "SANCA").

WITNESSETH

WHEREAS, Section 125.0104(5)(a)2, Florida Statutes, authorizes the expenditure of tourist development tax revenues to promote and advertise tourism in the State of Florida, nationally and internationally, as well as for an activity, service, venue or event which has, as one of its main purposes, the attraction of tourists; and

WHEREAS, Sarasota County contracts with the Sarasota Convention and Visitors Bureau, Inc. d/b/a Visit Sarasota County to promote travel and tourism to, and events in, Sarasota County, through among other things, the use of proceeds of Sarasota County's tourist development tax in the manner contemplated in Section 125.0104, *Florida Statutes* (the "Act"), and other legally available funds of Sarasota County; and

WHEREAS, Manatee County has established a Bradenton Area Convention and Visitors Bureau for Manatee County to promote travel and tourism to, and events in, Manatee County, through among other things, the use of proceeds of Manatee County's tourist development tax in the manner contemplated in the Act, and other legally available funds of Manatee County; and

WHEREAS, SANCA was selected by Fédération Internationale Des Sociétés D'Aviron, a company incorporated under the laws of Switzerland (hereinafter "FISA") to plan, host and stage the 2017 World Rowing Championships Event (the "Event") at Nathan Benderson Park located in Sarasota County; and

WHEREAS, Sarasota County, Manatee County and SANCA entered into that certain "Reimbursement Agreement for Funding of 2017 Word Rowing Championships Event" (the "Reimbursement Agreement"), dated September 4, 2013, which provided for the conditions and the process for reimbursement to SANCA for certain costs related to planning, hosting and staging the Event and included a "Guarantee of Performance", executed on behalf of Benderson; and

WHEREAS, SANCA desires to amend the Reimbursement Agreement to update the Project Budget, Sarasota County and Manatee County desire and to revise the manner in which Sarasota County and Manatee County ensure parity of reimbursement to SANCA of Reimbursable Event costs and, by separate agreement with SANCA, Benderson Development Company, LLC ("Benderson") has replaced the Guaranty of Performance with a Revised Undertaking..

NOW, THEREFORE, Sarasota County, Manatee County and SANCA, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, agree as follows:

1. Section 2 of the Reimbursement Agreement is hereby amended as follows (underlined language added, strike-through language deleted):

2. COUNTY REIMBURSEMENT CONTRIBUTION AND REIMBURSEMENT. Sarasota County and Manatee County ~~shall reimburse SANCA for the Reimbursable Costs up to a have each authorized the contribution of cash to the Event in the combined maximum total amount of \$5,564,000.00 (“Total County Reimbursement”). Sarasota County and Manatee County shall each reimburse SANCA for Reimbursable Costs paid by SANCA for the Event subject to the following provisions.~~

A. Limitation of Financial Participation. ~~The participation in the Reimbursement funding of the costs incurred by SANCA for the planning, hosting and staging of the Event by each of Sarasota County and Manatee County, individually, shall be limited to the following amount:~~

Sarasota County and Manatee County shall each reimburse SANCA an amount nNot exceed \$2,782,000 ~~each of for Reimbursable Costs for the Event, including application, planning, hosting and staging (“Individual County Reimbursement”).~~

~~The funds reimbursed pursuant to this Agreement by Sarasota County and the funds reimbursed pursuant to this Agreement by Manatee County shall not exceed such amounts. Additionally, except as authorized pursuant to Section 2.F., hereof, the obligation of each County to reimburse SANCA for Reimbursable Costs shall be subject to and contingent upon the other County reimbursing SANCA for a like amount of Reimbursable Costs pursuant to the Revised Project Budget Summary, attached hereto as Attachment A and by this reference, incorporated herein (the “Revised Project Budget”). in order to assure a dollar for dollar equal participation in the funding of the Application and the Event by both Counties in accordance with Section 2.F. hereof. Reimbursable Costs incurred pursuant to the Revised Project Budget after September 30, 2016 shall be eligible for reimbursement.~~

B. *Valid Reimbursable Costs; Compliance with Obligations:* Sarasota County and Manatee County shall reimburse SANCA for only such Reimbursable Costs as are validly incurred in accordance with the requirements of this Agreement. Sarasota County’s obligation to provide such reimbursement shall be subject to compliance by both Manatee County and SANCA with their respective obligations under this Agreement. Manatee County’s obligation to provide such reimbursement shall be subject to compliance by both Sarasota County and SANCA with their respective obligations under this Agreement.

1. Valid Reimbursable Costs shall be those expenses which are identified in the Revised Project Budget which expenses may include, without limitation, permanent investments in and improvements to Nathan Benderson Park, provided that these expenses are necessary to stage the Event, and are reimbursable in accordance with the Tourist Development Tax ordinance of each County.
2. The County Representatives, as defined below, may, at their discretion, authorize certain costs not specifically identified in the Revised Project Budget to be reimbursed provided such costs are deemed by them to be appropriate and necessary for the Event. Such approved expenditures shall not exceed the Total County Reimbursement in the aggregate the Counties’ financial commitments set forth in this Section 2 A.

C. *Submission of Written Request and Invoices:*

1. In order to receive reimbursement from Sarasota County, SANCA shall provide Sarasota County with a written request for reimbursement for those items listed as “Sarasota County Reimbursement” on the Revised

~~Project Budget, fifty percent (50%) of the cost to be submitted to Sarasota County, together with (1) written invoices and proofs of payment (a copy of each invoice and a copy of the front and back of each cancelled check or evidence of completed wire transfer); with supporting documentation including Event Fund bank statement showing invoice payments) and (2) documentation acceptable to Sarasota County reasonably necessary to identify the Reimbursable Costs incurred and funded by SANCA (including without limitation the corresponding line item in the Revised Project Budget), and (3) a copy of the written request to be submitted to Manatee County for a like amount of reimbursement.~~

2. In order to receive reimbursement from Manatee County, SANCA shall provide Manatee County with a written request for those items listed as "Manatee County Reimbursement" on the Revised Project Budget, fifty percent (50%) of the cost, to be submitted to the Bradenton Area Convention and Visitors Bureau; together with (1) written invoices and proofs of payment (a copy of each invoice and a copy of the front and back of each cancelled check or evidence of completed wire transfer with supporting documentation including Event Fund bank statement showing invoice payment), and (2) documentation acceptable to Manatee County reasonably necessary to identify the Reimbursable Costs incurred and funded by SANCA (including without limitation the corresponding line item in the Revised Project Budget). ~~and (3) a copy of the written request to be submitted to Sarasota County for a like amount of reimbursement.~~
3. All submitted invoices to Manatee County and Sarasota County shall ~~have a cover letter~~ include the following statement signed by an authorized agent of SANCA stating the following:

"I hereby certify that I am authorized to approve this request, that I have received the attached invoices in the amount of \$_____ and that all costs claimed have been incurred for services rendered in accordance with the Agreement, as amended by the First Amendment thereto, among SANCA, Manatee County and Sarasota County. All submitted invoices have been paid and no costs included herein have been previously submitted."

4. Notwithstanding anything to the contrary elsewhere in this Agreement, the Counties, through their respective County Representatives, may agree to remit payment for Reimbursable Costs pay individual costs on a basis other than a 50/50 the expense categories set forth in the Revised Project Budget, provided that their overall Individual County Reimbursements ~~respective Reimbursable payments~~ under this Agreement are equal in accordance with Section 2.F., hereof.

D. Processing and Payment: Each of Manatee County and Sarasota County shall, within ten (10) business days of receipt, review the invoice and either approve the invoice for payment or request from SANCA additional information. If an invoice is approved for payment, Manatee County and Sarasota County, as the case may be, shall remit payment to SANCA within forty-five (45) days of the date of the original submittal in accordance with the Local Government Prompt Payment Act (Section 218.70, F.S., et. seq.). If any amount in the request is disputed by Sarasota County or Manatee County, such County shall, as soon as practicable, notify SANCA and the other County, and make partial payment of the amount which is not in dispute pursuant to this paragraph. The County Representatives of Manatee County, Sarasota County and SANCA shall meet

within seven (7) business days of the County notification to attempt to resolve any disputed amount. ~~Subject to the provisions of Section 2.F., neither County shall refuse to pay an invoice solely because the other County has refused to pay a different invoice, its corresponding invoice for a Reimbursable Cost.~~

E. *Availability of Funds:* Manatee County and Sarasota County intend to fund the reimbursements to be made hereunder with proceeds of their respective tourist development taxes, ~~and other legally available funds.~~ The respective obligations of Manatee County and Sarasota County to reimburse SANCA for Reimbursable Costs hereunder are subject to the discretion of their respective Boards of County Commissioners to budget ~~legally available funds, including without limitation~~ proceeds of their respective tourist development taxes, ~~as well as other revenues,~~ in amounts sufficient to fund their respective Individual County Reimbursement, on a year by year basis such reimbursements. Accordingly, this Agreement shall not be construed to constitute a debt or general obligation of Manatee County or Sarasota County, or to result in a pledge of or lien upon any revenues of Sarasota County or Manatee County, including without limitation general revenues or proceeds of Sarasota County's tourist development tax or Manatee County's tourist development tax. The County Representatives shall provide written notice to SANCA if their respective Boards of County Commissioners fail or refuse to budget ~~legally available funds as necessary on an annual basis including, without limitation, the necessary tourist development tax revenues~~ to fund their respective obligations under this Agreement. No provision of this Agreement shall restrict, to any extent prohibited by law, any action or right of action on the part of any future county commission of either Sarasota County or Manatee County. To the extent of any conflict between this subsection and any other provision of this Agreement, this subsection shall control.

F. *Parity of Funding by Counties:* In order to assure parity of funding by the Counties ~~on a 50-50 basis,~~ SANCA shall include in the periodic reports provided pursuant to Section 3.F., hereof, a summary of the respective amounts paid to the date thereof by each County. ~~In the event that a report shows a disparity between the amounts paid by each County as of the report date that exceeds \$5,000, SANCA shall adjust its requests for reimbursement to each of the Counties to eliminate such disparity.~~ At the conclusion of the Event and closing out of outstanding expenses, SANCA shall submit a final reimbursement request to the Counties that is adjusted, to the extent possible in light of the funding restrictions applicable to each County, to achieve a strict 50-50 parity of the Total County Reimbursement funding. If, after final reimbursement by the Counties, any disparity remains between ~~their respective total reimbursement~~ the respective Individual County Reimbursement, then (1) any Net Revenues that are to be paid out to the Counties pursuant to Section 3.E shall be adjusted to correct such disparity, and (2) in the event a disparity still exists, the County that has funded the lesser amount of total reimbursements shall pay to the other County, from legal available funds, such amount as is necessary to correct the disparity.

G. *Discretionary In-Kind Contributions.* Sarasota County and Manatee County recognize that the Revised Project Budget includes some, but not all, items and/or services that may be required to mitigate the offsite impacts of the event. At their discretion, the Counties may provide in-kind items or services in support of the Event that are not included in the Revised Project Budget, but are needed to mitigate offsite impacts such as enhancement of traffic and general public safety. In deciding whether to provide in-kind services, the Counties may consider whether event revenues have been adequately sought or obtained and expenditures have been appropriately managed.

2. A new Section 3 of the Reimbursement Agreement is hereby created to read as follows (underlined language added):

3. REVISED UNDERTAKING. As a supplement to the Reimbursement Agreement, SANCA and Benderson Development Company, LLC, have entered into a Revised Undertaking, dated _____, 2017, which replaces the Guaranteed Performance, which previously supplemented the Reimbursement Agreement.

3. Section 4 (formerly Section 3) of the Reimbursement Agreement is hereby amended as follows (underlined language added, strike-through language deleted):

3.4. ADDITIONAL OBLIGATIONS REGARDING EVENT.

A. ~~County Representatives; County Participation in Event Committee:~~ The Sarasota County Administrator and the Manatee County Administrator shall each designate in writing one staff person (the "County Representatives") to carry out the functions assigned to them pursuant to this Agreement, ~~and to serve as voting members of the event management committee for the Event. In addition, Visit Sarasota County and the Bradenton Area Convention and Visitors Bureau shall each also appoint a staff person to serve on the event management committee.~~ Additionally, SANCA shall consult with the directors of the Convention and Visitors Bureaus of Sarasota County and Manatee County with respect to marketing and fundraising, advertisement design and placement for the Event.

* * * * *

B. Actions Requiring Approvals ~~of Counties.~~

1. SANCA shall obtain the approval of each of the County Representatives for the following actions:

a. Sales of Sponsorships for the Event;

b. Establishment of prices for ticket sales (individual and packages) and other revenue sources as set forth in Section 6.2.1. of the bid proposal to FISA; and

c. Any other expenditure, commitment of funds or contractual arrangement regarding the Event that exceeds fifty thousand dollars (\$50,000) in value. The value of expenditures or contractual arrangement shall not be split so as to avoid the requirement for County approval. In addition, expenditures that exceed fifty thousand dollars (\$50,000) shall include evidence of a competitive pricing process and/or justification for sole selection or sourcing of the expenditure.

When obtaining approval of the County Representatives, SANCA shall disclose to them any separate business relationship with any vendor or contractor, regarding the Event or otherwise. In procuring goods and services for the Event, SANCA shall use reasonable good-faith efforts to utilize contractors or vendors whose place of business is located in Sarasota County or Manatee County. Event-related expenditures shall not exceed the subtotals set forth in the Project Budget for the numerated subcategories listed in boldface in each lettered section thereof, unless approved by the County Representatives pursuant to Section 2.B.2., above.

2. SANCA shall disclose and obtain the approval of Benderson for the Event budget on a recurring basis through the conclusion of the Event.

* * * * *

F. Periodic Review Meetings. SANCA shall hold quarterly periodic meetings with the County Representatives to provide updates ~~including monthly financial statements~~ on the progress of planning and conducting the Event. ~~On or before 180 days directly preceding the Event and~~ On or before 14 days directly following the Event, such meetings shall be held to discuss the outcome of the Event, no less frequently than on a weekly basis. During the remainder of the term of this Agreement, such meetings shall be held as necessary, no less frequently than on a monthly basis. ~~The County Representatives may agree to consider the Event Committee meetings sufficient to fulfill the requirement of this section.~~

* * * * *

M. Fundraising. ~~No later than March 1, 2014,~~ SANCA shall designate an individual(s) or firm with experience and expertise in fundraising ~~for capital projects and nonprofit organizations~~ whose sole responsibility is to establish and implement a plan for organizing and obtaining sponsors, donors and grants on behalf of the Event ~~and/or the construction of major capital facilities required to host the Event.~~ The fundraising plan shall include quarterly reports to the County Representatives on the fundraising accomplishments ~~to the Event Committee.~~

4. Section 19 (formerly Section 18) of the Reimbursement Agreement is hereby amended to read as follows (underlined language added, strike-through language deleted):

19.18. SURVIVAL. The following Sections shall survive the expiration or termination of this Agreement. Sections 3.E., 3, K, and 5, and ~~Guarantee of Performance by Revised Undertaking of Benderson.~~

5. The Reimbursement Agreement is hereby amended to replace the Project Budget attached thereto as Attachment A with the Revised Project Budget attached to this First Amendment as Attachment A.

6. All Sections of the Reimbursement Agreement shall be re-numbered to reflect the additions herein.

7. All provisions of the Reimbursement Agreement not expressly amended by this First Amendment shall remain in full force and effect as set forth in the Reimbursement Agreement.

8. The undersigned represent that each has authority to execute this First Amendment on behalf of its respective entity.

9. This First Amendment shall take effect as of the date of execution by all parties.

WHEREFORE, the parties hereto have executed this Agreement as of the date and year first above written.

ATTEST:

KAREN E. RUSHING, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

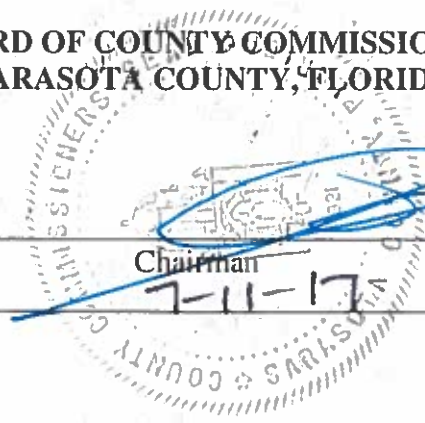
By: [Signature]
Deputy Clerk

Approved as to form and correctness:
By: [Signature] [Signature]
County Attorney

BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA

By: [Signature]
Chairman

Date: 7-11-17



MANATEE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
County Administrator

Date: _____

WITNESSES:

[Signature]
Mary S. Berkebile
[Signature]
Jody L. Kidd

SUNCOAST AQUATIC NATURECENTER ASSOCIATES, INC., a Florida Non-Profit Corporation

By: [Signature]

Title: President/CEO

Date: 7-5-17

**REVISED ATTACHMENT A
REVISED PROJECT BUDGET SUMMARY***

REVENUES

Total Event Revenue	\$ 235,000
Total Programming	111,380
Total Ticket Sales	566,000
Total Partnerships	500,000
County Reimbursement Grant	5,564,000
State of Florida Award ^b	2,500,000
TOTAL REVENUES	\$ 9,476,380

EXPENSES (by Category)

Pre-Event/Promotion

Total Compensation and related costs	\$ 1,775,693
Travel and Entertainment	150,000
Bid Fee	193,979
Commercial Rights Fee	583,430
LOC	500
TV Production	881,858
Media/PR/Communications	592,250

Event/Operating

Special Events	166,682
Festival Village/Marketplace	40,000
Community Programming	45,433
Competition Elements	103,000
Bus Transportation System	1,400,000
Operations	1,486,250
Medical	79,000
Accommodations	444,000
Development Program	119,000
Officials/Jury	20,000
Technology	456,000
Volunteers	72,000

Other

Total Office Expenses and Capital Expenditures	147,345
Bank Fees	10,000
Insurance	150,000
Sponsorship Activation	43,000

TOTAL EXPENSES	\$ 8,959,420
-----------------------	---------------------

Contingency/(Deficit)	\$ 516,960
-----------------------	------------

Sarasota County Reimbursement

Pre-Event/Promotion (not to exceed)	\$ 1,782,000
Event/Operating (not to exceed)	1,000,000
	\$ 2,782,000

Manatee County Reimbursement

Pre-Event/Promotion and Event/Operating (not to exceed)	\$ 2,782,000
---	--------------


^a Revised Project Budget Summary is based on the Project Forecast, dated June 2, 1017.

^b Subject to the approval by Sarasota County, portions of the State of Florida award used for Event expenses have been earmarked for permanent investments in Nathan Benderson Park.

Revised Undertaking of Benderson Development Company, LLC (Benderson)

Sarasota County and Manatee County have agreed to reimburse SANCA up to \$2.782 million each ("County Contributions") for Reimbursable Costs incurred to plan, host and stage the 2017 World Rowing Championships (the "Event"). The State of Florida is also contributing \$2.5 million toward the Event. To the extent SANCA requires additional funds in excess of the County Contributions, the State of Florida contribution, Event revenues and corporate partnerships to plan, host or stage the Event, Benderson shall make such additional funds available to SANCA; provided, however, SANCA must disclose and Benderson must approve (which approval shall not be unreasonably withheld) the Event budget on a recurring basis through the Event, at which time the Event budget will be considered final for purposes of this guarantee. This revised undertaking shall not be construed to obligate Benderson to any undisclosed obligations of the Counties or SANCA, nor shall Benderson have any liability, direct or indirect, to the Counties or SANCA for any loss or injury sustained by either of them or by any third party in connection with the Event.

BENDERSON DEVELOPMENT COMPANY, LLC

By:  ASW

Title: MANAGER

Date: 7-5-17

SUNCOAST AQUATIC NATURE CENTER ASSOCIATES, INC.

By: 

Title: President/CEO

Date: 7-5-17