

**REIMBURSEMENT AND LICENSE AGREEMENT FOR
PROMOTION OF
TOURISM**

**ANNA MARIA ISLAND CHAMBER OF COMMERCE
MANATEE COUNTY**

THIS REIMBURSEMENT AGREEMENT (“Agreement”), is made and entered into as of September 10, 2019, by and between the Anna Maria Island Chamber of Commerce, a Florida non-profit corporation (hereinafter, the “Chamber”) and Manatee County, a political subdivision of the State of Florida (hereinafter the “County”).

WITNESSETH

WHEREAS, the County has established a Bradenton Area Convention and Visitors Bureau for Manatee County to promote travel and tourism to, and events in, the County, through among other things, the use of proceeds of the County’s tourist development tax in the manner contemplated in Section 125.0104, Florida Statutes and other legally available funds of the County; and

WHEREAS, the Chamber promotes tourist-related business in Anna Maria Island, and is willing to provide the services described herein to promote tourism to Anna Maria Island area and the County at large subject to being reimbursed by the County as provided herein; and

WHEREAS, it is in the best interest of the County, and serves the mission of the County’s Convention and Visitors Bureau, to support the marketing and promotion of tourism to the County, by reimbursing the Chamber for the costs of such marketing and promotion in the manner set forth herein.

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

1. ADVERTISING AND PROMOTION OF TOURISM.

A. Promotion Services: For the purpose of promoting tourism to the Anna Maria Island area and the County at large, the Chamber shall provide or procure the promotional services described in Exhibit “A” attached hereto and incorporated herein by reference.

The actual and direct costs incurred by the Chamber in providing or procuring the foregoing services, in the amounts set forth in Exhibit “A”, shall be considered “Reimbursable Costs” for the purposes of this Agreement, and no other costs shall be considered Reimbursable Costs.

B. Grant of License: For the purpose of accommodating the placement and maintenance of the tourism information center(s) referenced in Exhibit “A”, the Chamber hereby grants to the County, and the County hereby accepts, a license through the Chamber’s office space referenced therein and the necessary space to provide reasonable access to such area, for the term of this Agreement.

2. REIMBURSEMENT. The County shall reimburse the Chamber for Reimbursable Costs, in an aggregate amount not to exceed one hundred twenty thousand nine hundred fifty dollars (\$120,950.00) per year, plus one-time reimbursement for building a new branded Chamber website not to exceed twenty-eight thousand dollars (\$28,000.00) subject to the following provisions.

A. Valid Reimbursable Costs; Compliance With Obligations: The County shall reimburse the Chamber for only such Reimbursable Costs as are validly incurred in accordance with the requirements of this Agreement. The County's obligation to provide such reimbursement shall be subject to compliance by the Chamber with its obligations under this Agreement.

B. Submission of Written Request and Invoices: In order to receive reimbursement, the Chamber shall provide the County with a written request, to be submitted to the Bradenton Area Convention and Visitors Bureau, together with (1) written invoices, (indicated as paid and including references to dates of payment and check numbers), and (2) a completed W-9 form.

C. Processing and Payment: The County shall, within ten (10) days of receipt, review the invoice and either approve the invoice for payment or request from the Chamber additional information. If the invoice is approved for payment, the County shall remit payment to the Chamber within forty-five (45) days of the date of the original submittal to the County representative. If any amount in the request is disputed by the County, the County shall, as soon as practical, notify the Chamber and make partial payment of the amount which is not in dispute pursuant to this paragraph. The Chamber and the County shall meet within seven (7) days of the County notification to attempt to resolve any disputed amounts.

D. Availability of Funds: The County intends to fund the reimbursements to be made hereunder with proceeds of the County's tourist development tax. The obligation of the County to reimburse the Chamber for Reimbursable Costs hereunder is subject to the discretion of the Board of County Commissioners to budget legally available funds, including without limitation proceeds of the County's tourist development tax, as well as other revenues, in amounts sufficient to fund such reimbursements. Accordingly, this Agreement shall not be construed to constitute a debt or general obligation of the County, or to result in a pledge of or lien upon any revenues of the County, including without limitation general revenues or proceeds of the County's tourist development tax.

3. FINANCIAL RECORDS AND ACCOUNTING. The Chamber shall keep and maintain financial records related to the operation of the program in accordance with generally accepted accounting principles, and shall allow the County or its agents to review and audit same at any time upon reasonable notice. The Chamber shall make all such records available for inspection as otherwise may be required by law. The Chamber shall be responsible for any governmental/regulatory fees or taxes associated with the program.

4. DURATION AND TERMINATION. The term of this Agreement shall commence on October 1, 2019, and shall remain in effect until September 30, 2022, with two (2) options to extend for an additional year, for a total of five (5) years. The effective terms of the Agreement will be based on a fiscal year of October 1 thru September 30 of each year. Either party may upon giving notice ninety (90) calendar days prior to the expiration of the term, elect to not renew this Agreement without cause for any reason. The Chamber will ensure that any and all contracts it enters into with contracting agents and advertisers are subject to the County's right of termination pursuant to this paragraph. Upon termination, the Chamber shall provide a final invoice to the County, and the County shall make a final reimbursement then due to the Chamber for all eligible costs incurred on or prior to the date of termination under this Agreement.

5. INDEMNIFICATION. To the extent permitted by law (and in the case of the County, the tort liability limitations set forth in Section 768.28, Florida Statutes shall also apply to any actions to enforce this Agreement, or any provisions herein) each of the parties hereto shall indemnify and hold harmless the other, 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 intentional wrongful conduct of the indemnifying party and other persons employed or utilized by the indemnifying party in the performance of this Agreement.

6. CATASTROPHIC EVENTS. No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Agreement if such failure is caused directly by a hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

7. NOTICES. All notices, comments, consents, objections, approvals, waivers, and elections which any party shall be required or requested or may desire to make or give under this Agreement shall be in writing and shall be given only by hand delivery for which a receipt is obtained, or certified mail, prepaid with confirmation of delivery requested, or facsimile transmission. All such communications shall be addressed to the applicable addresses set forth below or as any party may otherwise designate in the manner prescribed herein.

To the County: Executive Director
 Bradenton Area Convention and Visitors Bureau
 P.O. Box 1000
 Bradenton, FL 34206
 (941) 729-9177
 (941) 729-1820 (fax)

To the Chamber: President
 Anna Maria Island Chamber of Commerce
 5313 Gulf Drive North
 Holmes Beach, FL 34217
 (941) 778-1541
 (941) 778-9679 (fax)

8. DISCLAIMER OF THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party, including without limitation any subcontractors of the Chamber and any providers of promotional, advertising or other services, or goods, purchased by the Chamber. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.

9. CONSTRUCTION.

A. Entire Agreement: This Agreement represents the full agreement of the parties.

B. Equal Construction: Each of the parties hereto has had equal input into drafting of this Agreement such that no provision of this Agreement shall be construed strictly against one party as the drafter thereof.

C. Headings and Captions: The headings and captions of articles, sections, and paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or be taken into consideration in interpreting this Agreement.

10. AMENDMENTS; WAIVERS; ASSIGNMENT.

A. Amendments: This Agreement may be amended only pursuant to an instrument in writing that has been jointly executed by the parties hereto and duly authorized and approved by the Board of County Commissioners of the County and by the Chamber.

B. Waivers: Neither this Agreement nor any portion of it may be modified or waived orally. However, each party (through its governing body or properly authorized officer) shall have the right, but not the obligation, to waive, on a case-by-case basis, any right or condition herein reserved or intended for the benefit or protection of such party without being deemed or considered to have waived such right or condition for any other case, situation, or circumstance and without being deemed or considered to have waived any other right or condition. No such waiver shall be effective unless made in writing with an express and specific statement of the intent of such governing body or officer to provide such waiver.

C. Assignment: The rights and obligations of either party to this Agreement may be assigned to a third party only pursuant to a written amendment hereto.

11. VALIDITY. Each of the County and the Chamber represents and warrants to the other its respective authority to enter into this Agreement.

12. SEVERABILITY. The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

13. GOVERNING LAW; VENUE. This Agreement shall be governed by the laws of the State of Florida. Venue for any action to enforce any of the provisions of this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County, Florida, or, to the extent any proceeding is removed to federal court, the United States District Court for the Middle District of Florida, Tampa Division.

14. REMEDIES. Each party hereto shall have such remedies as are available pursuant to applicable law for any breach or non-performance by the other party.

15. **ATTORNEYS FEES AND COSTS.** Each party hereto shall be solely responsible for paying its attorneys fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation or pre-litigation negotiation arising under this Agreement.

16. **EFFECTIVE DATE.** This Agreement shall take effect as of the date set forth above.

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

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

By: Board of County Commissioners

By: _____
County Administrator

**ANNA MARIA ISLAND CHAMBER OF
COMMERCE,**
a Florida Non-Profit Corporation

By: Jesse Kinders, President

Exhibit A

- I. Promotion of Tourism.** Up to \$45,950.00 per year to promote tourism to Anna Maria Island area and the County at large, plus one-time reimbursement up to \$28,000 for building of Chamber's new branded website.
1. Chamber shall provide at least 30 sq. ft. of lobby space in main lobby at both offices (Anna Maria Island Chamber of Commerce and the tourist information kiosk at Manatee Public Beach) to CVB in order to place CVB's collateral material.
 2. Chamber shall have "Tourist Information Center" sign on exterior of office.
 3. CVB shall compensate the Anna Maria Island Chamber \$833.32 per month for a total of \$10,000.00 per year for tourist information lobby space at the Chamber, and the tourist information kiosk at Manatee Public Beach. Chamber shall invoice the CVB on a monthly basis.
 4. CVB shall reimburse Anna Maria Island Chamber for postage of one Anna Maria Island Chamber visitors guide and map as requested by prospective visitors (not to exceed the rate of \$3.31 for Domestic and \$4.79 for International) per mailing. (These rates include postage, labels and envelopes.) However, throughout the term of this agreement if postal rates increase, rates will be adjusted accordingly. Chamber shall invoice the CVB on a monthly basis
 - a. Proof/back-up of each prospective visitor shall be submitted with invoice. (i.e. mailing address, phone, e-mail, etc.)
 - b. CVB shall reimburse Anna Maria Island Chamber for postage when mailing out tri-fold guides to state-wide visitor centers. Chamber must show proof of postage paid.
 - c. Reimbursement costs for postage shall not exceed \$15,639.25 annually.
 5. CVB shall reimburse Anna Maria Island Chamber for brochure space at Florida visitor centers. Reimbursement shall not exceed \$571.75 annually.
 6. CVB shall reimburse Anna Maria Island Chamber for website development/e-newsletters/social media enhancements (i.e. landing pages, Facebook, Twitter, YouTube), as long as the enhancements are specifically related to tourism promotion. Reimbursement shall not exceed \$14,610.00 annually. Chamber shall invoice CVB and provide proof of payment of services.
 7. CVB shall reimburse Anna Maria Island Chamber a one-time expense of up to \$28,000 for Chamber to build a new branded website. Monthly maintenance of Chamber website will be the sole responsibility of the Chamber. (CVB shall accept retroactive invoices dating back to January 1, 2019 for reimbursement of building the Chamber's new branded website.)
 8. CVB shall reimburse Anna Maria Island Chamber for special event collateral for the specific promotion of tourism for Anna Maria Island, by which special events are marketed outside of Manatee County. Reimbursement shall not exceed \$5,129.00 annually.
 - a. CVB logo must be included on the promotional materials. Logo will be provided by the BACVB.
 - b. Proof of payment of promotional materials shall be submitted to CVB with invoice.
 9. Chamber shall provide to the CVB on a monthly basis all new partners/businesses to ensure that CVB includes the new businesses on CVB's website.
 10. The Director of the BACVB and Chamber President by mutual agreement may adjust the funds reimbursed for the above categories (up to two times per Fiscal Year) during the term of this agreement, as long as the adjusted term is specifically related to tourism promotion, and the total reimbursements do not exceed \$45,950 annually.

II. Tourism-Related Brand Advertising. Up to \$45,000.00 per year for tourism-related brand advertisement campaign.

1. Chamber shall plan, negotiate, and develop their own advertisement layouts.
2. Chamber has the right to create cooperative partnerships throughout each annual campaign, as long as each cooperative partner operates one of the following businesses located in Manatee County: a short-term rental property (six months or less), restaurant, attraction or other tourism-related business (located in Manatee County).
3. Chamber is required to implement the Bradenton Area CVB logo in all advertisements and provide CVB with advertisements prior to sending to media outlet(s). (CVB to provide logo template.)
4. CVB shall provide marketing guidance up to three (3) visits to the Chamber's advertising committee per fiscal year at the request of the Chamber.
5. Reimbursement Request Requirements:
 - a. In order for the Chamber to receive cooperative advertising reimbursement, Chamber shall provide the following in each reimbursement request packet:
 1. A qualified invoice which includes:
 - A. Names the Bradenton Area CVB as the "bill to" organization
 - B. Invoice number
 - C. Provide an itemized detail of advertising expenditures including the date the advertisement ran in publication and date cost was incurred and paid.
 2. Each invoice must be accompanied by the following documentation:
 - A. Print Ads – original or copy of tear sheet. This tear sheet must contain the name of the publication and the date published. If both items are not printed on the tear sheet, the entire publication is required. On-line tear sheets are acceptable as long as it provides sufficient documentation of the advertising.
 - B. Internet/Website Advertising/Banner Ads – Screen shot / "screen grab" to include the web address and the date. The date must be within the project period and on-line activity report for those on-line ads that run for a specified period of time.
 - C. Sufficient documentation of the advertising must be provided to verify proof of performance.
 3. Proof of payment of the advertising:
 - A. Copies of cancelled checks/credit card statement/receipt for payment.
 - B. Provide invoice from media vendor showing cost breakdown of ad placement.
 - b. No reimbursement will be paid to Chamber in advance of service or product completion.
6. Chamber shall provide at the end of each fiscal year (September 30), a breakdown of all advertisements placed, and the cooperative programs established during the year.
7. All Chamber's invoices for reimbursement requests must be received by CVB no later than September 20 of each fiscal year in order to process payments prior to the end of CVB's fiscal year. All unused monies from this advertising program will not be carried forward to the next fiscal year.
8. Chamber Marketing Plan must be reviewed by CVB prior to implementation.
9. Reimbursement shall not exceed \$45,000.00 annually.

III. Tourist Information Center. Up to \$30,000.00 per year for staffing of the Tourist Information Center at Manatee Public Beach, pursuant to Florida Statute 125.0104(5)(a)4.

1. CVB shall reimburse Anna Maria Island Chamber for actual costs incurred for staffing the Manatee Public Beach Tourist Information Kiosk.
2. The Chamber may adjust weekly or monthly hours as necessary during peak and off-season months to ensure adequate kiosk coverage while allowing for pay-rate flexibility. Total reimbursement not to exceed \$30,000 annually.
3. Reimbursement shall be for only those costs incurred to staff the Tourist Information Kiosk to provide county-wide visitor information. No indirect or direct administrative costs of Chamber shall be reimbursed.
4. Chamber shall staff the Kiosk through a staffing agency retained by Chamber and shall require that costs thereof be invoiced to Chamber separately from all other staffing services purchased by Chamber, such invoices to be provided as supporting documentation for Chamber's invoices to CVB.
5. All staff utilized by Chamber shall not be employees of the CVB or County, and Chamber shall be solely responsible for complying with all applicable labor and employment requirements (payroll tax withholding, workers compensation, etc.) either directly or through its retained staffing agency.
6. Reimbursement shall not exceed \$30,000.00 annually.