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**AMENDMENT TO CONTRACT
REGARDING
RESTRICTED FUND PROJECT**

FUNDING PROVIDER: DARE COUNTY TOURISM BOARD

FUNDING RECIPIENT: TOWN OF NAGS HEAD
EURE OUTER BANKS ARTS CENTER, INC.

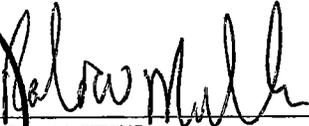
DATE OF THIS EXTENSION: AUGUST 26, 2009

DATE OF ORIGINAL AGREEMENT: AUGUST 20, 2009

The BUREAU and GRANTEE agree as follows:

1. The completion date is hereby extended from June 30, 2009, to no later than March 31, 2010.





 GRANTEE _____ GRANTEE _____ (SEAL)

Cliff Ogburn, Town Manager
 Town of Nags Head

 DARE COUNTY TOURISM BOARD

the project in accordance with this agreement.

Furthermore, the GRANTEE agrees to indemnify and hold the BUREAU and its individual directors harmless from any and all monetary liability, loss or damage which the BUREAU or its directors may suffer as a result of claims, demands, costs or judgments against them or any nature whatsoever resulting from or related to this project, including, but not limited to, those arising out of the contracting for, construction, use or existence of the property or facility, whether present or future, and for third-party personal injuries suffered as a result of any of the above.

Cliff Ogburn THE TOWN OF Robert W. Muller
 GRANTEE: TOWN OF NAGS HEAD GRANTEE: EURE OUTER BANKS ARTS CENTER
 BY: Cliff Ogburn BY: Robert W. Muller
 TITLE: Town Manager TITLE: Secretary

Sworn to and subscribed before me 1961 Sworn to and subscribed before me
 This 10th day of September This 27th day of August,
 2009. 2009

Carolyn F. Morris Carolyn F. Morris
 NOTARY NOTARY
 My Commission Expires: My Commission Expires:
3/9/11 3/9/11

BOARD: DARE COUNTY TOURISM BOARD

BY:
TITLE: Dare County Tourism Board Chair

Sworn to and subscribed before me
This ____ day of _____,
20____.

NOTARY
My Commission Expires:

Contract Number: RF0809-04, Eure Outer Banks Arts Center
Project Location: *Town of Nags Head*

AGREEMENT

THIS AGREEMENT entered into this 16th day of February, 2009, by and between the Dare County Tourism Board, d/b/a Outer Banks Visitors Bureau (hereinafter called the BUREAU) and Town of Nags Head and the Eure Outer Banks Arts Center, Inc. (hereinafter called the GRANTEE).

WITNESSETH THAT:

WHEREAS, the BUREAU strives to enhance tourism and tourism opportunities for Dare County; and

WHEREAS, the BUREAU wishes to support projects that are consistent with the basic goals and objectives of the Outer Banks Visitors Bureau; and

WHEREAS, the BUREAU has determined that certain grants are appropriate to local governmental entities and non-profit organizations for public projects made necessary to offset the impacts of tourism; and

WHEREAS, the GRANTEE hereby agrees to administer this contract in accordance with the Short Term Restricted Fund Rules & Qualifications, application, Reimbursement Criterion, and the applicable laws and regulations promulgated by local, State and Federal Governmental agencies.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

I. PROJECT IDENTIFICATION

A. Name, address and telephone number of GRANTEE and principal contact person:

Cliff Ogburn, Interim Town Manager
Town of Nags Head
P.O. Box 99
Nags Head, NC 27959

Bob Muller, Secretary
Eure Outer Banks Arts Center
210 E. Driftwood Street
Nags Head, NC 27959

B. Project Title: Eure Outer Banks Arts Center

C. Period Covered by this Agreement: Fiscal Year 2008-2009. Project work to be done under this contract shall commence on or before July 1, 2008 and shall be completed no later than June 30, 2009 unless the completion date is extended by an amendment to this contract.

D. Project Description: Purchase the Glen Eure Ghost Fleet Gallery to operate Eure Outer Banks Arts Center as a public art gallery and arts center.

E. Project Stage Covered by this Agreement: This agreement is in effect until the project is 100% completed, inspected and a closeout letter is received by the GRANTEE from the BUREAU or term has expired whichever comes first.

F. Project Funding:

Board Amount	\$109,659.00
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Total Project Cost	\$550,000.00
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G. Project Conditions (Conditions are all equal and must be complied with):

1. This project is to be consistent with the goals and objectives of the Dare County Tourism Board.
2. No construction is to occur prior to the receipt of all required local, state and federal permits. This includes but is not limited to sign recognition on project of contributions by the BUREAU. Burden rests on GRANTEE to comply. No reimbursement will be made prior to the erection of proper signage.
3. Authorized improvements, work, etc., and costs will comply with the grant application submitted to and approved by the BUREAU and are limited to the above stated project and location (if applicable).
4. Without limitation, unauthorized changes in the project from the approved site plan, budget and other material submitted with the final grant application will be sufficient cause for the reduction in or complete withdrawal of grant funds at the sole discretion of the BUREAU without recourse.
5. No grant payments will be made by the BUREAU prior to its receipt of itemized documentation as set forth in Section III, Paragraph A herein, evidencing all charges incurred and the dates work was accomplished or materials delivered.
6. Project will be completed fully and closed out prior to the project termination date as set forth in Section I, Paragraph C herein.
7. The GRANTEE will be subject to repayment of the BUREAU's investment plus interest and penalties, if the land purchased under this project is sold.

8. Requirement for reimbursement for approved project must have the following:
 - (a) Appropriate sign recognition of contribution made by the Outer Banks Visitors Bureau.
 - (b) Wording to be pre-approved by the Outer Banks Visitors Bureau. Examples would be: *"This project funded in part by the Dare County Tourism Board," "This project commissioned by Dare County Tourism Board,"* or *"This project paid in part by the Dare County Tourism Board."*
 - (c) Logo of the Dare County Tourism Board must be included in signage, unless written request to wave requirement is approved by the Outer Banks Visitors Bureau.

9. The following items are non-reimbursable: Including but not limited to inkind services and any local, state or federal tax.

II. PROJECT EXECUTION

- A. The BUREAU and the GRANTEE mutually enter into this agreement to comply with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps and assurances submitted in conjunction with the project proposal above referenced.
- B. The GRANTEE agrees to execute and complete the approved project in accordance with the approved plan.
- C. Construction contracted for or performed by the GRANTEE shall meet the following requirements:
 1. Construction contracts shall comply with all local, state and federal requirements.
 2. Amendments to contracts for construction shall be made by written change order only. Such change orders shall be made a part of the project file and shall be kept available for audit.
 3. The GRANTEE agrees to incorporate or cause to be incorporated into all construction contracts the following provisions:

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are

treated during employment, without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Contractor setting forth the provisions of this non-discrimination clause.

- (b) The Contractor will, in all solicitation or advertisements of employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
- D. The GRANTEE agrees to secure completion of the work in accordance with the approved construction plans and specifications, and shall secure compliance with all applicable Federal, State and local laws and regulations, including the North Carolina Building Code.
- E. The GRANTEE agrees to permit periodic site visits by the BUREAU to ensure work progress in accordance with the approved project, including a final inspection upon project completion. The GRANTEE may request within fourteen days after project completion, in writing, that the BUREAU make its final inspection.
- F. This project shall be completed so as to be fully independent, self-sufficient and/or stand alone without the need for future phases, improvements, additions, or work. In no way does funding of phase projects obligate the BUREAU to fund any future phases.
- G. Deviations from any part of the project proposal, including but not limited to any terms of this agreement, shall be submitted to the BUREAU's Grant Administrator. Final approval rests with a majority vote of Dare County Tourism Board of Directors.
- H. Development plans and specifications shall be available for review by the BUREAU upon request.
- I. Any real property involved in the project must be owned by or be under the irrevocable control of the GRANTEE and no grant funds are to be used for the acquisition of real property unless specifically included as a part of the proposal submitted to and approved by the BUREAU.
- J. Project Administration
 - 1. The GRANTEE shall promptly submit such reports as the BUREAU may request.
 - 2. The GRANTEE shall fund all costs of the project until its completion and shall submit paid invoices for all materials, labor and other costs at the time it requests the BUREAU to make its final inspection as set forth in Section II, Paragraph E herein.

III. REIMBURSEMENT OF PROJECT COSTS

- A. The GRANTEE agrees to maintain and make available at reasonable times to the BUREAU all bid

documents and accurate records of all expenditures for costs applicable to the project agreement and to submit properly certified paid billings for such costs on forms prescribed by the BUREAU, supported by detailed data sheets which will facilitate an audit, at the GRANTEE's expense, of the GRANTEE's records. Complete accounting records, including, but not limited to, original invoices, contracts and other documents clearly showing the nature and propriety of all costs incurred under this agreement, shall be retained by the GRANTEE for a period of three years following project completion or until a compliance audit has been completed, whichever is later. All accounting records and supporting documents will clearly show the number of the project to which they are applicable.

- B. The BUREAU agrees to reimburse the GRANTEE only for costs actually incurred by the GRANTEE under terms of this Project Agreement. Should the total costs of the project exceed the Project Cost as set forth in Section I, Paragraph F, those excess costs shall be the sole responsibility of the GRANTEE.
- C. Project costs eligible for reimbursement shall be determined solely by the BUREAU by referral to the proposal as approved by the BUREAU.

IV. PROJECT TERMINATION

- A. This agreement may be rescinded, modified or amended only by written agreement executed by all parties hereto.
- B. Failure of the GRANTEE to comply with the terms of this agreement shall be deemed sufficient grounds for the termination of all obligations of the BUREAU hereunder.
- C. Failure by the GRANTEE to comply with the terms of this agreement shall not be the cause for the termination of all obligations of the BUREAU hereunder if, in the judgement of the BUREAU, such failure was due to no fault of the GRANTEE. Furthermore, if said failure of compliance causes or creates additional monetary expenses or obligations then the BUREAU can, but need not, reimburse the GRANTEE for these expenses so long as reimbursement can be made within the total sum of the BUREAU's grant.

V. RETENTION, OPERATION, MAINTENANCE AND USE

The standards which apply to the retention operation, maintenance and use of properties and facilities acquired or developed with this grant assistance are contained in this section.

- A. The GRANTEE agrees to operate and maintain solely at its own expense, insofar as it is legally empowered to do so, for as long as they exist, the facilities, sign recognition of the BUREAU and areas covered by this agreement.
- B. Property developed with this grant assistance shall be retained for use of the public and the GRANTEE agrees to return the amount of the grant to the BUREAU should the property or facility be converted to some other use.

- C. Property developed with the assistance of this grant shall be operated and maintained as follows:
1. The property shall be maintained so as to appear attractive and inviting to the public. Sanitation and safety standards shall be those reasonably appropriate to public use.
 2. Buildings, roads and other structures and facilities shall be kept open for public use at reasonable hours and times of year, according to the type of area or facility.
- D. Property or facilities developed with assistance of this grant shall be open to entry and use by all persons, regardless of race, color, creed, national origin or residence, who are otherwise eligible according to reasonable, published rules consistent with and applicable to the uses of the property or facility involved.
- E. The GRANTEE may impose reasonable limits on the type and extent of use of the areas and facilities developed with assistance of this grant when such limitation is necessary for maintenance or preservation of the facility or to protect the health, safety and welfare of the users, abutting property owners and the general public.

VI. GENERAL PROVISIONS

- A. Conflict of Interest:
1. No official or employee of the GRANTEE who is authorized in his official capacity to negotiate, make, accept, approve, or take part in such decisions regarding any contract or subcontract in connection with this project shall have any financial or other personal interest in such contract or subcontract.
 2. No person or firm performing services for the GRANTEE in connection with this project shall have a financial or other personal interest other than his employment or retention by the GRANTEE in any contract or subcontract in connection with this project.
 3. The GRANTEE shall be responsible for enforcing the above conflict of interest provisions.
- B. Nondiscrimination:
1. The GRANTEE shall not discriminate against any person on the basis of race, color or national origin in the use of any property or facility developed pursuant to this agreement.
 2. The GRANTEE shall not discriminate against any person on the basis of residence in the use of the property or facility developed pursuant to this agreement.
- C. Liability: The BUREAU's sole liability under this agreement is to furnish the stated funding for