

CLAY COUNTY AGREEMENT/CONTRACT #98/99-80 RN9

NINTH RENEWAL

**AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR DISBURSEMENT
OF OPERATIONAL FUNDING AT THE SJRSC PERFORMING ARTS COMPLEX**

**THIS NINTH RENEWAL OF THE AMENDED AND RESTATED INTERLOCAL
AGREEMENT FOR DISBURSEMENT OF OPERATIONAL FUNDING AT THE SJRSC
PERFORMING ARTS COMPLEX** (the “Ninth Renewal”), is entered into this ____ day of
September, 2024, by and between the District Board of Trustees, St. Johns River State College
(“SJRSC”), a political subdivision of the State of Florida, and Clay County, a political
subdivision of the State of Florida (“the County”).

RECITALS

WHEREAS, on February 9, 1999, the parties entered into an Interlocal Agreement
designated by the County as Agreement No. 98/99-80 (the “First Agreement”) to provide for the
County's contribution of \$1,000,000 for a matching funds grant for the planning, design and
construction of a Visual and Performing Arts Complex and Conference Center (the “Project”) on
terms and conditions stated therein; and

WHEREAS, in October 2000, the First Agreement was amended to provide for
additional funds solicited by SJRSC and the St. John's River State College Foundation, Inc.,
from the County in the amount of \$500,000, to enable SJRSC to apply for an additional matching
Challenge Grant of \$500,000, from the State College Capital Facilities Matching Trust Fund, to
further allow for additional and upgraded facilities to make the Project a multi-purpose one, and
to enhance the Project as a whole; and

WHEREAS, the First Agreement was entered into for the purpose and intention of
permitting said parties, individually and collectively, to cooperate in making the most efficient

use of their respective powers, resources and capabilities with regard to the planning, design and construction of the Project, with associated support facilities on the grounds of the existing college campus located at 283 College Drive, Orange Park, Florida 32065-7650; and

WHEREAS, the subject of the First Agreement, as amended, centered on the contribution of the \$1,500,000, plus accrued interest, by the County for the Project, and contemplated an operational agreement to provide for the method of disbursement and expenditure of the \$1,500,000, plus accrued interest, and for the future contribution by the County for ongoing operational costs associated only with the Visual and Performing Arts Complex (the “Performing Arts Complex”) but not the Conference Center; and

WHEREAS, on December 16, 2003, the County and SJRSC entered into the Amended and Restated Interlocal Agreement for Disbursement of Construction Funds at the Performing Arts Complex, and the \$1,500,000 plus accrued interest was disbursed to the SJRSC for the purposes described therein; and

WHEREAS, the parties agreed to negotiate an operational agreement for the purposes of providing for the County’s future contribution for ongoing operational costs associated only with the Performing Arts Complex; and

WHEREAS, on April 13, 2004, the parties entered into an Amended and Restated Interlocal Agreement for Disbursement of Operational Funding at the SJRSC Performing Arts Complex (the “Operational Agreement”) for the purposes set forth immediately above; and

WHEREAS, on March 13, 2007, the parties entered into the First Renewal to the Operational Agreement; and

WHEREAS, on March 10, 2010, the parties entered into an Extension of the First Renewal extending the expiration date of the Operational Agreement from March 30, 2010 to

June 30, 2010; and

WHEREAS, on May 11, 2010, the parties entered into a Second Renewal extending the expiration date of the Operational Agreement from June 30, 2010 to September 30, 2012;

WHEREAS, on September 19, 2012, the parties entered into a Third Renewal extending the expiration date of the Operational Agreement from September 30, 2012 to September 30, 2014; and

WHEREAS, on September 23, 2014, the parties entered into a Fourth Renewal extending the expiration date of the Operational Agreement from September 30, 2014 to September 30, 2016; and

WHEREAS, on December 13, 2016, the parties entered into a Fifth Renewal extending the expiration date of the Operational Agreement from September 30, 2016 to September 30, 2018; and

WHEREAS, on March 9, 2019, the parties entered into a Sixth Renewal extending the expiration date of the Operational Agreement from September 30, 2018 to September 30, 2020; and

WHEREAS, effective as of October 1, 2020, the parties entered into a Seventh Renewal extending the expiration date of the Operational Agreement from September 30, 2020 to September 30, 2022; and

WHEREAS, effective as of October 1, 2022, the parties entered into an Eighth Renewal extending the expiration date of the Operational Agreement from September 30, 2022 to September 30, 2024; and

WHEREAS, the parties wish to enter into this Ninth Renewal to extend the expiration date of the Operational Agreement from September 30, 2024 to September 30, 2026 and restate

and amend the Operational Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and for other good and valuable consideration, the receipt of which and the adequacy of which are mutually acknowledged, with each party accordingly waiving any challenge to the sufficiency of such consideration, it is mutually covenanted, promised and agreed by the parties hereto as follows:

1. INTERLOCAL AGREEMENT

1.1. The recitals are an integral part of this Ninth Renewal and are incorporated herein by reference.

1.2 This Ninth Renewal is entered into pursuant to the provisions of Section 163.01, Florida Statutes, commonly known as the “Florida Interlocal Cooperation Act of 1969” (the Act), and all applicable portions of the Act are made a part hereof and incorporated herein as if set forth at length herein, including, but not limited to the following specific provisions:

(a) All of the privileges and immunities and limitations from liability, exemptions from laws, ordinance and rules, and all pensions and relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents, or employees of the parties hereto when performing their respective functions within their respective territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents or employees extra-territorially under the provisions of this Ninth Renewal.

(b) This Ninth Renewal does not and shall not be deemed to relieve any of the parties hereto of any of their respective obligations or responsibilities imposed upon them by law except to the extent of the actual and timely performance of those

obligations or responsibilities by one or more of the parties to this Ninth Renewal, in which case performance provided hereunder may be offered in satisfaction of the obligation or responsibility.

(c) As a condition precedent to its effectiveness, this Ninth Renewal and any subsequent amendments hereto shall be filed with the Clerk of the Circuit Court of Clay County.

(d) The provisions of Section 125.0104, Florida Statutes, shall govern the interpretation and administration of this Ninth Renewal.

2. TERM; TERMINATION

2.1. This Ninth Renewal shall commence on October 1, 2024 (“Effective Date”) and shall continue through September 30, 2026.

2.2. The County has the sole option to renew the Operational Agreement if it is deemed to be in the County’s best interest to do so.

2.3. Either party may terminate this Ninth Renewal, in whole or in part, at any time, for their convenience upon sixty (60) days advanced written Notice of Termination. The County may also terminate this Ninth Renewal pursuant to paragraphs 3.2 and 4.2 immediately upon written Notice of Termination by the County to SJRSC. Upon such termination, all rights and obligations of the parties under this Agreement shall cease, except for those that have accrued prior to the date of termination or that are expressly stated to survive termination.

3. FUNDING CONSIDERATION

3.1. The Operational Agreement is a cost-reimbursement agreement.

3.2. The County’s obligations under this Ninth Renewal are contingent upon SJRSC’s continued use of the Performing Arts Complex primarily for the production of theater,

dance, music performances and visual arts exhibits. In the event SJRSC abandons the production of theater, dance, music performances, and visual arts exhibits and instead uses the Performing Arts Complex for purposes unrelated to said productions, performances, and exhibits, then the County's agreement to fund operational costs under this Ninth Renewal will immediately cease.

3.3. The maximum reimbursement amount the County agrees to contribute towards the operational cost of the Performing Arts Complex under this Ninth Renewal for the County's 2024/2025 and 2025/2026 fiscal years which begin on October 1 and continue through September 30 of each year is \$125,000 for each fiscal year. Operational costs for which reimbursement will be made shall consist of expenses for purchasing programming, advertising, and promotional materials distributed outside of Clay County to attract tourists and out-of-town visitors to the Performing Arts Complex ("qualified operational costs").

3.4. The County shall reimburse SJRSC for the qualified operational costs it incurs during the term of this Ninth Renewal upon submission of an invoice and appropriate documentation for reimbursement by SJRSC to the Director of Tourism & Film Development sufficient to allow the Clay County Clerk of Court and Comptroller to perform both preaudit and post-audit functions as required by law. Appropriate documentation shall consist of a physical copy of ad(s), announcement, or documentation showing coverage of an event along with copies of paid statements or bills, front and back of cancelled check(s) used for payment, and a copy of the bank statement.

3.5. SJRSC shall certify in writing with each request that its reimbursement request complies with the restrictions imposed by this Ninth Renewal on the funds' use solely for operation of the Performing Arts Complex portion of the Project. The County, upon written reasonable notice, shall have the right to audit and inspect any records of SJRSC and the Project

to ensure compliance with the terms of this Ninth Renewal.

4. APPROPRIATED FUNDS

4.1. SJRSC acknowledges that in the budget for each fiscal year of the County during which the term of this Ninth Renewal is in effect a limited amount of funds are appropriated which are available to make payments arising under the Ninth Renewal. Any other provisions of this Ninth Renewal to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Ninth Renewal from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.

4.2. SJRSC also acknowledges that the County's financial obligation for future operational costs under this Ninth Renewal are funded solely from the revenue generated pursuant to the Tourist Development Tax generated pursuant to Section 125.0104, Florida Statutes. In the event there are insufficient revenues generated to cover the County's future operational obligations under this Ninth Renewal, then the County shall notify SJRSC of the insufficiency and this Ninth Renewal shall immediately terminate. Subject to the limitations set forth above and subject to the obligation of the County to pay for essential governmental services in any fiscal year, the County agrees to budget and appropriate sufficient funds for each fiscal year during the term of this Ninth Renewal in order to meet its obligations to SJRSC under this Ninth Renewal.

5. PAYMENTS

5.1. All payments will be governed by the Local Government Prompt Payment Act. This Act provides that all payments will be made not later than 45 days from receipt of proper invoice and appropriate documentation.

6. SCHEDULING OF EVENTS AND THE BOARD'S USE

6.1. SJRSC will be solely responsible for scheduling all of the events at the Project and for the collection and administration of all rentals and fees for the use of the Performing Arts Complex and the Conference Center. The County may schedule events and/or meetings at the Performing Arts Complex and/or the Conference Center, including associated parking lots, without charge. SJRSC agrees to commit sufficient resources without charge to the County to accommodate the use by the County of the Performing Arts Complex and/or the Conference Center. The County agrees to pay actual expenses for the stage labor and janitorial services for the usage of the Performing Arts Complex.

6.2. SJRSC agrees to use a revised reservation agreement tailored to the needs of the County that meets the requirements of both parties. Specifically, within the areas of insurance coverage and indemnification/insurance due to both parties being political subdivisions of the State of Florida.

7. DESTINATION MARKETING AND MANAGEMENT SERVICES

7.1. SJRSC agrees to provide Clay County Tourism Department marketing and/or promotional opportunities within the Performing Arts Complex and/or the Conference Center areas. Any such considerations and opportunities outside of the following agreed upon items shall be mutually agreed upon in writing by both parties and may require an amendment to this Ninth Renewal. The following items are agreed upon:

- a) Placing a link to www.ExploreClay.com on the Thrasher-Horne Center website.
- b) Promotion and sharing of www.ExploreClay.com or the ExploreClay app through the use of either a rack card, print materials or other agreed upon

marketing tools in the Performing Arts Complex Grand Lobby and the Conference Center Foyer.

- c) Provide a copy of the above rack card, print materials or other agreed upon marketing tools provided by the Clay County Tourism Department focused on promoting the Clay County Tourism services to the lessee of any booked rental event with over 150 anticipated participants.

8. AMENDMENTS

8.1. The Ninth Renewal may only be modified or amended by written agreement duly authorized and executed by the parties hereto. No oral agreements or representation shall be valid or binding upon either party. SJRSC may not unilaterally modify the terms of the Ninth Renewal by affixing additional terms by incorporating such terms onto SJRSC's documents forwarded by SJRSC to the County.

9. SEVERABILITY

9.1. If any provisions of this Ninth Renewal 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 Ninth Renewal, and this Ninth Renewal shall be enforced as if such invalid and unenforceable provision had not been contained herein.

10. FURTHER ASSURANCES

10.1. Each party agrees that it will execute and deliver to the other promptly upon demand any and all documents or other instruments, and take such other action as is necessary to give effect to the terms and intent of this Ninth Renewal.

11. WAIVER

11.1. No waiver by either party of any term or condition of this Ninth Renewal

will be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, subparagraph, clause, phrase, or other provision of this Ninth Renewal.

12. TIME IS OF THE ESSENCE

12.1. Time is of the essence with respect to this Ninth Renewal and each of its terms and provisions.

13. REMEDIES

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

14. PUBLIC RECORDS

14.1. SJRSC 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. SJRSC shall comply with all requirements of Chapter 119, Florida Statutes, to the extent applicable to the records and documents associated with the Operational Agreement.

IF SJRSC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES AS TO ITS DUTY, TO PROVIDE PUBLIC RECORDS RELATING TO THE OPERATIONAL AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 529-3604, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

15. ATTORNEYS' FEES

15.1. In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Ninth Renewal or regarding the rights, remedies, or obligations of the parties arising under this Ninth Renewal, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees, costs, and expenses against the other party, including fees, costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the County's liability beyond the limits established in Section 768.28, Florida Statutes.

16. RELATIONSHIP

16.1. 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. SJRSC is an independent contractor and is not an employee, agent, joint-venture, or partner of the County.

17. GOVERNING LAW AND VENUE

17.1. This Ninth Renewal 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 Ninth Renewal lies in Clay County, Florida.

18. HEADINGS

18.1. The headings contained in this Ninth Renewal are for reference purposes only and shall not affect in any way the meaning or interpretation of any or all of the provisions

hereof.

19. COUNTERPARTS

19.1. The Ninth Renewal 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.

20. AUTHORITY

20.1. The parties agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Ninth Renewal and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this Ninth Renewal on behalf of such party and that the Ninth Renewal will constitute a legal and binding obligation of such party.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Ninth Renewal as of the date and year first set forth above.

**DISTRICT BOARD OF TRUSTEES
ST. JOHNS RIVER STATE COLLEGE**

By: _____,
_____, Its Chairman

Attest:

Approved as to form for St. Johns River
State College

Joe H. Pickens, President
St. Johns River State College

General Counsel
St. Johns River State College

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

By: _____
Jim Renninger
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

F:\Contract\SJRSC (St. Johns River State College)\Sjccila operational agreement renewal-2024-2026 RN9.doc