



CLAY COUNTY BOARD OF COMMISSIONERS
Commission Chambers, Fort Gaines, Georgia
MINUTES

Special Called Meeting
December 1, 2010
6:30 p.m.

1) Call to Order

Chairman Shivers called the special called meeting to order at 6:30 p.m. Commissioner Fair gave the opening prayer. Chairman David Shivers and Commissioners James Davenport and Radar Fair, Sr. were in attendance. Vice Chairman Barry Waters and Commissioner Walt Killingsworth were not in attendance.

2) Agenda Approval

Agenda item 3d) "Call for Vote of Revocation of Alcoholic Beverage License for Cynthia Brooks DBA South of the Border" was removed from the agenda and item 3d) "Approval of the Invoices" was added to the agenda.

Motion made by Commissioner Fair to approve the agenda with changes and the addition of approving the invoices. Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.

3) New Business

a. Discussion and review of bids for the Energy Efficiency Conservation Block Grant Program
Motion made by Commissioner Fair to accept Jimmy's Heating and Cooling bid of \$72,395.00.
Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.

Motion made by Commissioner Fair to accept Albany Electric's bid of \$71,739.60. Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.

b. Discussion and review of bids for the Off System Safety Action Project
Motion made by Commissioner Fair to accept the bid for \$48,479.20 from Peak Pavement.
Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.

b. Renewal of the Hotel Motel Tax Agreement between Georgia Dept. of Natural Resources and Clay County

Motion made by Commissioner Fair to renew the Hotel Motel Tax Agreement between the Department of Natural Resources and Clay County. Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.

c. Approval of Source of transportation for participation in the Fort Gaines Annual Christmas Parade

Chairman Shivers will supply the trailer and the County office staff will decorate.

d. Approval of the Invoices

Motion made by Commissioner Fair to pay the bills. Motion seconded by Commissioner Davenport. Commissioners Fair and Davenport and Chairman Shivers voted yea; motion carried.



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- 4) **Adjourn**
There being no further business the special called meeting adjourned at 7:14 p.m.

David Shivers
David Shivers, Chairman

12/8/2010
Date

I HEREBY AFFIRM THAT I AM THE COUNTY CLERK AND THAT THIS IS A TRUE AND CORRECT COPY OF THE DECEMBER 1, 2010 SPECIAL CALLED MEETING OF THE CLAY COUNTY BOARD OF COMMISSIONERS.

Adria Williams
Adria Williams, County Clerk

12/8/2010
Date

**STATE OF GEORGIA
COUNTY OF CLAY**

CONTRACT

THIS CONTRACT is hereby established between the Georgia Department of Natural Resources, an agency of the State of Georgia, hereinafter referred to as "Department," and Clay County, a political subdivision of the State of Georgia, hereinafter referred to as "County."

WITNESSETH WHEREAS, the Department is responsible for administering the State Park lodges and cabins within the State of Georgia, and desires to advertise and promote the lodges and cabins to Georgia residents and visitors; and,

WHEREAS, the County desires to promote itself as a tourist and meeting destination and to encourage the use of businesses in the County by visitors to George T. Bagby State Park, hereinafter referred to as "Park," thereby increasing the revenues of the County and creating and maintaining employment opportunities within the County; and,

WHEREAS, O.C.G.A. 48-13-50 authorizes local jurisdictions to levy and collect an excise tax upon the furnishing for value of rooms, lodgings, or accommodations; and,

WHEREAS, any park operated by the Department which furnishes for value, lodge rooms, or has a minimum 20 cabins, and which is located in a county levying a tax pursuant to O.C.G.A. 48-13-51 shall collect and remit taxes to the county in amounts equal to, or partially equal to, the amounts collected and remitted by privately operated lodging facilities in the county; and,

WHEREAS, the County has already imposed or intends to impose a 5% excise tax upon the furnishing for value to the public of any rooms, lodgings, or accommodation in Clay County; and,

WHEREAS, pursuant to O.C.G.A. 48-13-54, the Department agreed to this level of taxation at the Park; and,

WHEREAS, the General Assembly has declared its purpose and intent that revenues derived from the tax imposed at the Park must be expended for the purpose of development, promotion, or advertising of the Park, lodges, or cabins, or of similar facilities operated by the Department or for similar purposes of promoting, advertising, stimulating, and developing conventions and tourism in the county in which the state park is operated as long as said promotion or advertising prominently features the Park; and,

WHEREAS, the County and the Department, directly and through other organizations as permitted by O.C.G.A. 48-13-51, agree to undertake activities that have the purpose and effect of promoting, attracting, stimulating, and developing visitation and meetings at the Park and in the County;

NOW THEREFORE, in consideration of the following mutual promises, covenants, and conditions, Department and County agree as follows:

SECTION 1

This contract shall begin October 1, 2010 and unless terminated earlier pursuant to the provisions of this Contract, shall expire September 30, 2011. The Contract shall be terminated earlier upon the repeal or the termination of the County's authority to levy a hotel/motel tax at the Park.

SECTION 2

- a) The Department agrees to collect hotel/motel taxes at the Park and remit payments to the County. The amount of tax to be collected shall be 5%, but may not exceed the amount collected and remitted by privately operated lodging facilities in the County.
- b) Any action by the County to impose or change the rate of tax shall become effective no sooner than the first day of the second month following its adoption by the County.
- c) The County shall notify the Park of the method and schedule of collection and remittance of the tax.

SECTION 3

- a) The County shall adopt a budget plan specifying how the expenditure requirements of O.C.G.A. 48-13-54 will be met before imposing the tax at the Park. The budget plan must be approved by the Department and adopted by the County prior to each contract year in which the County proposes to impose the tax.
- b. After adoption of the annual budget plan, the County will implement the activities and projects described therein. However, at any time, the Department or County may consult with each other with respect to such written modification of the budget plan as the parties may by mutual agreement determine appropriate.

SECTION 4

- a) Taxes collected at the Park can be expended only for the development, promotion, or advertising of the park lodge or cabins or for similar facilities operated by the Department or for similar purposes of promoting, advertising, stimulating, and developing conventions and tourism in the County as long as said promotion or advertising prominently features the state park facilities.
- b) In order to develop, promote, or advertise the state park facilities and the County, the Department hereby contracts with the County to provide those activities and projects described in the annual budget plans which it submits to the Department during the term of this contract.
- c) In consideration of the performance by the County of the services to be provided hereunder, the Department agrees that it shall pay to the County and the County shall budget for expenditures under this Contract, a sum equal to 100% of the net revenues collected at the Park as defined in Section 5(a) of this Contract.

SECTION 5

- a) The amounts to be paid by the Department to the County hereunder shall be paid to the County on or before the last day of the month during which the taxes are collected by the Department. The amount of each such installment shall be calculated on the basis of net revenues collected during that month. As used herein, "net revenues collected" means total taxes collected less the Department's deduction for collecting the taxes.
- b) The Department shall be allowed a percentage of the tax collected in the form of a deduction for submitting, reporting, and paying the tax. The rate of the deduction shall be the same rate authorized for deductions from the state sales and use tax, which is currently 3% of the total amount of the tax collected.
- c) Pursuant to the terms of O.C.G.A. 48-13-51, taxes shall not be collected for lodging furnished for a period of more than ten (10) consecutive days, for meeting room rentals at a lodge, or from state or local government officials or employees traveling on official business.

SECTION 6

- a) Not later than January 15th of each year, the County shall file with the Department a written report on the accomplishment of the promotional activities and projects previously submitted in the budget plan by the County to the Department for the preceding contract year.
- b) The County shall maintain records sufficient to demonstrate proper expenditure of the Amounts paid to it in accordance with this Contract and shall furnish to the department by the date hereinabove each year a report certifying the receipt and expenditure of the fund.

SECTION 7

- a) Neither the Department nor the County shall assign any of its rights, duties, or responsibilities under this Contract without prior approval of the other party; however, either party may subcontract for any of the services to be performed under this Contract after securing the approval of the other party.
- b) Pursuant to O.C.G.A. 48-13-51(a)(3), the County may expend the tax funds collected at the Park only through a contract with the Department, another state agency or state authority, a convention and visitor's bureau, or any other private sector nonprofit organization such as a Chamber of Commerce, a regional travel association, or any other private group organized for similar purposes which is exempt from Federal income tax under Section 501 (c)(6) of the Internal Revenue Code of 1986, or through a subcontract or subcontracts with some combination of such entities.
- c) It is agreed that neither the County nor the Department nor anyone acting for the County or the Department shall at anytime impose any obligation, debt, or burden of any kind or nature in the name of or charged to either party.

SECTION 8

- a) In the performance of this Contract, the County and the Department agree to comply with all applicable State and Federal rules, regulations, standards, laws, policies, guidelines, and requirements now existing or which is hereafter enacted or adopted.
- b) It is further agreed by the County and the Department that neither they nor their subcontractors shall discriminate against any person on account of race, creed, color, sex, age, or national origin in the performance of this Contract.

SECTION 9

- a) This Contract and all the rights, privileges, and responsibilities bestowed by it shall be interpreted and construed according to the laws of the State of Georgia.
- b) Failure of the County or the Department to perform fully all the provisions, terms, or conditions of the Contract shall constitute a breach of this contract. Upon written notice from either party of said breach, the notified part shall have thirty (30) days in which to cure the breach. Upon failure to cure such breach the other party may, by written notice, terminate the Contract.
- c) Upon termination or expiration of this Contract, no right or liability shall arise out of this relationship, regardless of any plans which may have been made for future projects or services.
- d) The failure of either party at any time to require performance by the other party of any provision hereof shall in no way affect the rights of the parties thereafter to enforce the same provision or any part of the Contract, nor shall the failure of either party to enforce

any breach of any provisions constitute a waive, modification, or rescission of the Contract itself.

e) Any other provision hereof notwithstanding, in the event any term of this contract is determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms thereof, which shall remain in full force and effect.

f) Any notice, request, or demand required by this contract shall be sent to the other party by certified mail, return receipt requested.

SECTION 10

a) This Contract represents the sole and complete understanding of the terms of this contract between the parties hereto and may be amended, changed, or modified only by a written document signed by the parties hereto.

b) Time is of the essence of this contract.

c) This Contract is executed in two (2) counterparts, each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

IN WITNESS WHEREOF, the parties have hereunto executed this contract and affixed their seals by their duly authorized representatives this 23rd day of November, 2010.

COUNTY:

BY: David Shivers
David Shivers, Chairman
Clay County Board of Commissioners

ATTEST:

Arena Dilliant
County Clerk

DEPARTMENT:

BY: _____
Commissioner
Georgia Department of Natural Resources

ATTEST:
