SAMPLE FORM OF AGREEMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ACCOMMODATIONS TAX
GRANT AGREEMENT

This Agreement is entered into this ____ day of _____, 20___, by and between Georgetown County (the "County") and _____ (the "Grantee"). The County has designated the sum of $_____ to be paid for the event or project named _____, which is a valid public purpose under the laws of the State of South Carolina. This sum has been designated for this purpose by formal action of Georgetown County Council on *[Date]*. In consideration of the disbursement of these funds, the Grantee hereby expressly agrees to the terms and conditions outlined in this Agreement.

1. **FUNDS TO BE EXPENDED FOR SPECIFIED PUBLIC PURPOSES.** The Grantee has provided in its grant application a statement of the intended uses of these funds and, unless otherwise restricted by special conditions attached to this grant, this Agreement anticipates that the funds will be used accordingly. Changes to the intended uses of these funds are not allowed without the express consent of the Georgetown County Accommodations Tax Advisory Committee and Georgetown County Council. A copy of the grant application and any special conditions made a part of this grant offer, if applicable, are attached hereto. All funds shall be expended for a valid public purpose under the laws of the State of South Carolina, including those provisions relating to the use and expenditure of Accommodations Tax funds, which are attached hereto in Exhibit A.

2. **FUNDING AVAILABILITY.** Funds under this grant are generally provided to award recipients, upon request, in advance of their event or project; however, funds should not be requested more than thirty (30) days prior to when they are actually needed for expenditure. In some cases, funds may be awarded only on a reimbursement basis. Such a stipulation will be at the discretion of the ATAX Advisory Committee and County Council based on the facts and circumstances of the particular applicant and the event or project proposed. If funds have been granted on a reimbursement basis, that stipulation will be included in the "special conditions" attached hereto.

3. **FUNDING PERIOD.** Events or projects for which funds are to be provided by way of this grant, whether advanced or reimbursed, must be completed within twelve (12) months of the date of this award. Any funds not expended at the end of this term must be returned to the Accommodations Tax Tourism Fund and be made available for allocation at the next scheduled award period.

4. **REQUIREMENT TO FOLLOW COUNTY PROCUREMENT PROVISIONS.** Accommodations tax funds are public funds and, as such, the Grantee must follow all applicable procurement policies and procedures of Georgetown County in the expenditure of these public funds. The County's procurement policies and procedures can be accessed on the County's website at www.georgetowncountysc.org (follow links to the "Purchasing" page), or by contacting the County's procurement officer. While Georgetown County personnel will assist recipients with implementation questions, it is the responsibility of the recipient to ensure compliance with established procurement policies and procedures. Upon completion of the event or project the Grantee will be required to certify that correct procedures have been followed.

5. **CERTIFICATE OF INSURANCE.** The Grantee shall provide a Certificate of Insurance upon request and with terms as the County may require. Each such certificate shall designate the County as a certificate holder, listing the County as an additional named insured, and shall not be canceled without thirty (30) days' written notice to the County.

6. **REQUIRED FINANCIAL INFORMATION.** Before any funds are disbursed, the Grantee shall provide copies of its most recent audited financial statements, or such other alternative financial information as determined by the County's Finance Director, on a case-by-case basis, to provide adequate documentation of prior award receipts and disbursements. The Grantee shall also provide a written project narrative for the current event or project and a project budget that clearly identifies how awarded funds will be spent. The project budget should also detail all funding expected to be available for the event or project. Normally, these documents will have been provided at the time the application was filed.

   The Grantee must provide a final accounting or summary financial report for the event or project within sixty (60) days of completion. Copies of all invoices and canceled checks for costs paid with ATAX funding should accompany the final accounting or summary report, along with a completed final evaluation report that includes:

   a. Total attendance for the event (this may require sampling or other methods to facilitate a valid estimate).

   b. Percentage of tourists attending the event (this may require sampling or other methods to facilitate a valid estimate).

   c. Description of how successful the event or project was at attracting tourists to the area and how the event or project's success may be improved if the event or project is repeated in future years.

7. **ACCESS TO FINANCIAL RECORDS.** The Grantee shall allow one or more representatives of the County access to review such financial records of the Grantee as necessary to substantiate the receipt and disbursement of the funds provided hereunder. Such access shall be scheduled during the Grantee's normal business hours and at the location where such records are customarily maintained by the Grantee and shall be granted provided the County has given forty-eight (48) hours notice to the Grantee of its desire to review such records.

8. **INDEMNIFICATION AND HOLD-HARMLESS PROVISIONS.** By accepting the funds which are the subject of this Agreement, the Grantee agrees to the extent permitted by state law to indemnify the County and hold it harmless from and against any and all causes of action which may arise out of the course of the disbursement and use of the funds which are the subject of this Agreement, to include a reasonable attorney's fee to defend such action or actions.

9. **SOUTH CAROLINA FREEDOM OF INFORMATION ACT.** By accepting funds under this Agreement, the Grantee acknowledges its understanding that it will be subject to the provisions of the South Carolina Freedom of Information Act (the "Act") which is found in the S.C. Code of Laws, Title 30, Chapter 4. Grantee agrees that it will comply fully with the provisions of the Act.

10. **GRANT NOT TO BE CONSTRUED AS COUNTY SPONSORSHIP.** This grant shall not be construed as County sponsorship of any event or project of the Grantee. The Grantee may not publish the County's logo or list the County as a sponsor or endorser without the County's prior written consent. Any Grantee desiring to acknowledge this grant in published materials may use the following text: *"[Grantee name]* wishes to acknowledge an Accommodations Tax grant from Georgetown County that helped to defray the costs of *[name of event or project]."*

11. **NONCOMPLIANCE AND RETURN OF FUNDS.** If the County shall determine at any time that the funds disbursed hereunder were not spent for valid tourism related public purposes and according to the terms of this Agreement, then the Grantee shall, upon the County's demand, repay all or such portion of the funds disbursed hereunder as the County may determine have not been spent in such a manner.

The County may terminate this agreement upon thirty (30) days' written notice of any default or failure by the grantee to perform its obligations hereunder.

WITNESS OUR HANDS AND SEALS on the day and year first written above.

WITNESSES FOR THE COUNTY:

_____ _____

County Administrator

_____

WITNESSES FOR THE GRANTEE:

_____ _____

Grantee Representative

_____

REVIEW CAREFULLY - YOU WILL BE REQUIRED TO SIGN A SIMILAR AGREEMENT PRIOR TO RELEASE OF FUNDING.

EXHIBIT A

Excerpts from the South Carolina Code of Laws regarding Accommodations Tax

SECTION 6-4-10. Allocation to general fund; special fund for tourism; management and use of special fund.

The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

(1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists. **"Tourism-related expenditures" include**:

1. advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

2. promotion of the arts and cultural events;

3. construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

4. the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

5. public facilities such as restrooms, dressing rooms, parks, and parking lots;

6. tourist shuttle transportation;

7. control and repair of waterfront erosion;

8. operating visitor information centers.

(c) Allocations to the special fund must be spent by the municipality or county within two years of receipt. If the allocations are not spent within two years, the municipality or county is subject to the provisions of Section 6-4-30(6). However, the time limit may be extended upon the recommendation of the county or municipality and approval of the South Carolina Accommodations Tax Oversight Committee in Section 6-4-30. An extension must include provisions that funds be committed for a specific project or program.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.