

**COUNTY OF WARREN LOCAL TOURISM PROMOTION AND CONVENTION
DEVELOPMENT AGREEMENT FOR 2020 WITH JOHNSBURG**

This Agreement is made by and between the COUNTY OF WARREN, a municipal corporation and political subdivision established under the Laws of the State of New York, having its offices and principal place of business located at the Warren County Municipal Center with a mailing address of 1340 State Route 9, Lake George, New York 12845 (hereinafter "County") and the TOWN OF JOHNSBURG, a municipal corporation and political subdivision established under the Laws of the State of New York, having its principal place of business located at the Town Hall, 219 Main Street, North Creek, New York 12853 (hereinafter "Town" or "Municipality")

WITNESSETH

WHEREAS, the County derives revenue from the Occupancy Tax authorized by act of the New York State Legislature (Chapter 422 of the Laws of 2003) and, after deducting the amount provided for administering such Tax, is to allocate the funds to enhance the general economy of the County of Warren and its Cities, Towns and Villages through the promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities, and

WHEREAS, the Municipality is ready, willing and able to provide for promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities, and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to carry out the terms of this Agreement; and

WHEREAS, the Warren County Board of Supervisors authorized contracts with the various municipalities in Warren County to provide funds, annually, to enhance the general economy of the various municipalities and therefore, the County of Warren, through the promotion of tourist activities, conventions, trade shows, special events, and other directly related and supported activities, and

WHEREAS, the Occupancy Tax Coordination Committee has approved the 2020 Occupancy Tax Spending Plan to authorize contracts with various municipalities for 2020,

NOW, THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the County and the Municipality agree as follows:

Part I - Payment

1. Payment. In accordance with the terms of this agreement, the County shall pay and disburse to the Town the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00), pursuant to the 2020 Occupancy Tax Spending Plan, passed by the Warren County Board of

Supervisors on February 21, 2020. All funds made available for use in connection with this agreement and accepted by the Municipality shall be subject to and expended in accordance with the terms and provisions of the Agreement (without the need to approve and sign additional agreements). Payment of said amount by the County to the Town shall be made within Thirty (30) days of the execution of this Agreement.

Part II - Use/Accounting of Funds

2. Expenditure of Funds.

a) The funds paid to the Municipality pursuant to the terms hereof shall be allocated only for tourism promotion and tourist and convention development. More specifically, the funds shall be used to enhance the general economy of the Municipality through the promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities. All funds provided to the Municipality must be spent for these purposes, and none of the funds provided pursuant to this Agreement may be used for expenses of the Municipality in administrating the use of the funds as allocated herein. More specifically, the Municipality shall use the funds provided by this Agreement in the calendar year 2020, for such purposes as are set forth in the spending guidelines annexed hereto as Schedule "A". All expenditure of funds shall be authorized by board resolution of the Town.

b) As set forth in paragraph 5 of this agreement, a Municipality may be liable for ineligible expenditures. While the Municipality may expend funds provided under this agreement without prior approval of such expenditures by the County, if a Municipality has a question as to whether a particular expenditure is an eligible expenditure under the spending guidelines (Schedule A) or desires prior approval of an expenditure plan to avoid the possibility that the County may determine an expenditure or expenditures as ineligible under this agreement, the Municipality may seek an advance approval by the Occupancy Tax Committee of the County Board of Supervisors, whose determination that an expense is eligible will be the County's final determination.

3. **Accounting of Funds and Expenditures.** Municipalities receiving funds are required to establish a designated revenue and expense line in their municipal accounts for tourism to account for the shared bed tax revenue on or before October 1st of each year. On or before March 15th of each year, municipalities are required to report to the County on the use of the revenue sharing funds for the previous fiscal year. The report shall include: (a) a description of activities or projects receiving revenues; (b) the number of persons served; (c) an outline of plans for continuing the activity or project; and (d) any and all other information that the County may deem necessary by further resolution adopted by the Board.

4. Records/Audits. The Municipality shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Agreement (herein collectively "the Records") in accordance with the following requirements: (a) the Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter; and (b) the County Chairman of the Board, the Occupancy Tax Committee of the Board of Supervisors, the Administrator of Fiscal Services, the County Attorney, or any other person or entity authorized to conduct an examination, as well as the Board of Supervisors, shall have access to the Records during normal business hours at an office of the Municipality, or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that; (i) the Municipality shall timely inform an appropriate County official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified and designation of said records as exempt under the statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation.

5. Refunds to County/Ineligible Expenditures.

In the event that it shall be determined by the Board of Supervisors that the Municipality has made ineligible expenditures with funds provided by this Agreement, the Municipality may substitute other eligible expenditures for the fund or expend such amounts for eligible expenses thereafter or if this is not done such amount shall be refunded to the County.

Part III - Term and Early Termination

6. Term. This agreement shall be for the period of January 1, 2020 through December 31, 2020, and shall automatically expire on December 31, 2020 unless terminated earlier by either party, in its sole discretion, upon thirty (30) days written notice. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice. Upon receipt of the notice of termination, the Municipality understands that it should cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and not to incur any new obligations after receipt of the notice without approval by the County except that the Municipality may use funds remaining from prior County distributions provided the Municipality is not in breach of this agreement. In no event shall the County be liable for expenses or obligations arising from programs or other expenditures made pursuant to the terms of this Agreement after the termination date.

Part IV - Indemnification

7. Indemnification. The Town shall defend, indemnify and hold harmless the County and its officers and employees from claims, notices of claims, suits, actions, damages and costs of every kind and nature, including but not limited to reasonable attorney's fees, arising out of activities funded or otherwise carried out pursuant to the terms of this Agreement.

Part V - Other

8. Nature of Agreement/Independent Contractor. This Agreement is a funding agreement. This Agreement is not intended to create, nor shall it be construed as creating, a joint venture or partnership. The Municipality is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the County, nor make any claim, demand or application to or for any right, based on any different status.

9. Discrimination Prohibited. The services to be furnished and rendered under this Agreement by the Municipality shall be available to any and all residents of Warren County without regard to race, color, creed, sex, religion, national or ethical origin, handicap or source of payment.

10. No Partisan Political Activity. Funds provided pursuant to this Agreement shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

11. Set-Off Rights. The County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any monies due the Municipality under this Agreement up to the amounts due and owing to the County with regard to this Agreement, any other Agreement with any County department or agency, including any contract for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the County for any other reason, including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

12. Executory Clause. The County shall have no liability under this Agreement to the Municipality or to anyone else beyond the funds appropriated and available for this Agreement.

13. Disputes. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be heard in a court of competent jurisdiction within the State of New York.

14. Amendment. This agreement may not be amended, modified or renewed except by written agreement signed by the Town and the County.

15. Severability. If any term or provision of this agreement or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and every other term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

16. Entire Agreement. This agreement is the entire agreement between the parties.

Approved as to form:

Mary Ellen Kei

Warren County Attorney

WARREN COUNTY

By: Frank E. Thomas

Frank Thomas, Chairman
Warren County Board of Supervisors

Date: 4/14/20

Town of Johnsbury

By: _____

Andrea Hogan
Supervisor, Town of Johnsbury

Date: _____



Schedule "A"
SPENDING GUIDELINES

GENERAL GUIDELINE

Generally, uses of occupancy tax revenues provided to Municipalities by the County, must be expended for Promotion of Tourist activities, conventions, trade shows, special events and other directly related and supported activities. Promotion or promoting is defined as furthering the growth of, establishment of, sales, and/or contributing to the growth, enlargement, or prosperity of and/or to forward or to encourage or to advance. Therefore and importantly, in order for an expenditure to be eligible under these guidelines it can not just be "related" to Tourism, it must be determined to be consistent with the previously stated allowed uses and the definition of promotion.

APPLICATION OF GENERAL GUIDELINE TO LIST BELOW

The listing below is intended to provide examples of acceptable or eligible expenditures under the general guideline provided above. In order to maintain the listing below as an easy to use and practical tool, elaborate or extensive descriptions have, generally, been avoided. Therefore, the examples should always read together with the general guideline, above, to ascertain the extent to which funds may be expended for the example provided.

SPECIAL EVENTS/FESTIVALS/ACTIVITIES

Production/Development of New Events/Activities, i.e., Outdoor Drama, Civic Center Events, Elvis Festival; and advertisement of same.

Billboard production/Installation/Rental Creation of Programs/Directories for Specific events

Fireworks Displays

Banners/Flags

Business Cards

Postage

Event Consultation Fee

Rental of Traveling/Special Exhibits

Promotional Items -- Give-Aways i.e., Buttons, Pins, Decals Letterhead/Envelopes/Postcards

Re-enactors/Musicians/Entertainers Create Town Tours/Maps

Portable Toilets

Sponsorship/Hosting Fees

Event Crowd Control -- Safety Concerns

Promotional Items -- Resale i.e., Mugs, T-shirts

Set-up/Clean-up Costs directly related to a Tourist event/activity

RECREATIONAL ATTRACTIONS

Advertisement and enhancement of existing and new recreational activities and attractions to be developed to accommodate and increase the number of visiting tourists, for example, enhancements to river walk, snowmobile trail system, hiking trails, bicycling routes with displays or improvements to accommodate tourists such as benches or a gondola for transportation.

Mapping/Brochures

Clearing/preparation of property for Tourist or convention activity or event.

Any eligible criteria from other spending guideline categories.

WEB SITE DEVELOPMENT/ELECTRONIC PROMOTION

Expenditures for the following, provided that the same is for purposes of promoting tourism, conventions, special events, trade shows and other tourist activities:

- Search Engine Optimization
- Web Site Design/Construction
- Email Appends
- Purchase of Images/Sound
- Broadcast Design/Delivery of Promotions, Purchase of Hyper-Links
- Newsletters
- Interactive Informational Kiosk
- Purchase of Banner Ads
- Purchase Photo Enhanced Listings

BROCHURE PRODUCTION/DISTRIBUTION

General tourism guide, seasonal guides, themed events, flyers, promotional literature, niche ~ publications (i.e. walking/driving tours, packages, itineraries, coupons, heritage, birding, sports, etc.), post cards, maps, posters.

- Design Fees
- Copyrighting
- Paid Brochure Distribution Locations
- Typesetting
- Reproduce Brochure to CD/DVD
- Production (disks/films/pdt's, proofs, etc.)
- Postage/Permit Fees
- Printing/Reprinting
- Photography

ADVERTISEMENTS/PROMOTIONS

- Paid advertisements promoting events, activities, packages, attractions, conventions, tradeshow for general tourism development to Warren County communities - Destination Marketing Programs.
- Co-op partnerships in all Warren County - Adirondack Regional Tourism Council - New York State publications, as well as national publications and directories, radio, newsprint/magazine opportunities, television campaigns and trade and consumer show brochure distribution and exhibit space co-oping.
- Local, Regional and/or National Advertising or Promotional Opportunities
- Production/Placement of Ads (Print, Radio, and Design/Production/Agency Services TV)
- Consumer/Trade Show Registration
- Clipping Service
- Exhibit Graphics
- Advertising in Trade Journals
- Kiosk Design
- Staffing Expenses
- Signage/ Ad on Trolley or Bus
- Logo Development/Tag Line/Branding
- Business Reply Cards
- Product Development, i.e., Tour Packages, Itineraries, Special Events
- Coupons
- Familiarization (FAM) Tour Development
- Public Relations - Press Kits, Press Release Development, Printing, Mailing Broadcasting

MEMBERSHIPS/ ASSOCIATIONS/ AFFILIATIONS

For Furtherance of Tourism Promotion, i.e., American Bus Association (ABA), New York State Travel and Vacation Association (NYSTVA), National Tour Association (NTA), etc.

SPECIALIZED PROFESSIONAL SERVICES

Expenditures for the following, provided that the same is for purposes of promoting tourism, conventions, special events, trade shows and other tourist activities :

Shoot Videographer or Photographer	Airplane/Helicopter Rental for
Graphic Designer	Ad/Brochure/Web Design Research, Feasibility or Marketing Studies Sponsorship of Events, i.e. "Elvis" fee
Step-On Guide Services	
Public Relations Agency	Outsourcing to Call Centers, Fulfillment Houses
Speakers/Musicians/Entertainers/Models	Update portions of Local History in furtherance of promoting tourism, conventions, special events, trade shows and other tourist activities Hosting/Attending Educational Seminars, i.e., Hospitality Training

EDUCATIONAL TOURISM

Informational Kiosk

Hosting/Attending Workshops, i.e., How to Market Your Destination, Property or Event

BEAUTIFICATION

Community Signage,
i.e., Welcome or Directional signs

Plantings/LandscapingStreetscaping/lighting furthering establishment or growth of tourism, conventions, special events, trade shows and other tourist activities

Informational Kiosk

Fountains/Benches

AUDIO - VISUAL PRODUCTION, DUPLICATION AND DISTRIBUTION

DVD/CD/MHS

MISCELLANEOUS PROMOTION

Mailings to targeted audiences

Purchase Mailing Lists

CAPITAL PROJECTS

Expenditures may be made for capital projects which facilitate use by tourist and/or increase tourism to an area by improving the aesthetic qualities of the municipality, enhancing the environment, improving infrastructures related to tourism, conventions and trade shows, and developing, operating and maintaining parks, recreational facilities and tourist attractions.

When spending funds for capital projects it is necessary to be sure the primary benefit is to promotion of Tourist activities, conventions, trade shows, special events and other directly related and supported activities. A project which only incidentally furthers tourism etc. and primarily benefits residents is not allowable as contrary to the legislatively authorized use of this funding.

Warren County Board of Supervisors

RESOLUTION NO. 50 OF 2020

RESOLUTION INTRODUCED BY SUPERVISORS DICKINSON, MERLINO, STROUGH, BRAYMER, BRUNO, FRASIER, GERAGHTY, LEGGETT AND SEEBER

APPROVING THE 2020 OCCUPANCY TAX SPENDING PLAN AND AUTHORIZING AGREEMENTS BETWEEN MUNICIPALITIES IN WARREN COUNTY AND OTHER ORGANIZATIONS FOR TOURISM PROMOTION AND TOURIST AND CONVENTION DEVELOPMENT SERVICES

WHEREAS, the County derives revenues from the Occupancy Tax authorized by act of the New York State Legislature (Chapter 422 of the Laws of 2003) and, after deducting the amount provided for administering such tax, is to allocate the funds to enhance the general economy of the County of Warren and its cities, towns and villages through the promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities, and

WHEREAS, the Warren County Board of Supervisors has previously authorized contracts with the various municipalities in Warren County to provide funds, annually, to enhance the general economy of the various municipalities and therefore, the County of Warren, through the promotion of tourist activities, conventions, trade shows, special events, and other directly related and supported activities, and

WHEREAS, the Occupancy Tax Coordination Committee has approved the 2020 Occupancy Tax Spending Plan to authorize the contracts with various municipalities for 2020 as outlined above, as well as to provide funding for the following: Warren County Event Funding and the Lake George Convention and Visitors Bureau for the following stated amounts in January of 2020 or as soon thereafter as agreements between the municipalities and the various organizations can be executed and payment thereunder processed:

RESOLUTION NO. 50 OF 2020

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2020 Occupancy Tax Spending Plan

Lake George	\$145,000	(Combined Town and Village allocation)
Bolton	\$ 55,000	
Queensbury	\$ 55,000	
Towns & City of Glens Falls	\$112,500	\$12,500 each of the eight remaining towns & City of Glens Falls
County Event Funding	\$425,750	Remaining County event funding for major regional activities only
Lake George Convention & Visitors Bureau	\$550,000	

now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors be, and hereby is, authorized and directed to execute agreements providing funds for the various municipalities listed above, as well as for Warren County Event Funding and the Lake George Convention & Visitors Bureau, as approved in the 2020 Occupancy Tax Spending Plan stated in the preambles of this resolution in a form approved by the County Attorney, and be it further

RESOLVED, that the Warren County Treasurer be, and hereby is, authorized and directed to pay the amounts specifically set forth herein above as soon as possible upon receipt of a fully executed agreement, and be it further

RESOLVED, that the remaining amounts provided to the municipalities under the previously existing agreements to be distributed as provided therein and based on the formula previously approved by the Warren County Board of Supervisors in distributing twenty-five percent (25%) of the total occupancy tax collections to the municipalities in Warren County.