

COPY

## PERFORMANCE AGREEMENT

THIS AGREEMENT executed this 27<sup>th</sup> day of May, 2008, by and between Hernando County Fair Association, Inc., a Florida not-for-profit corporation ("Fair") and Hernando County, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("County") is set forth to establish the rights, responsibilities and liabilities of the parties hereto with respect to re-development of that certain property in the City of Brooksville, Florida, commonly known as the Fairgrounds Parcel and specified portions of the adjacent East Parcel ("Property"), which is the subject of that certain Memorandum of Agreement, to be effective as of 27 May 2008 (the "MOA").

### Background:

County has agreed to deed to Fair the Property based on the representations made by its corporate representatives that such conveyance will (1) allow Fair to more easily obtain financing required to make certain improvements to the Property as set forth in the Master Plan (the "Plan") attached thereto, and (2) resolve certain disputed legal issues as to the rights of the parties hereto with respect to the Property. If not for such representations, County would not have agreed to convey the specified portions of the Property to Fair. County desires assurance that Fair will carry out the Plan, and Fair desires to assure County that the Plan will be implemented substantially as attached hereto. To that end, for good and sufficient consideration in hand paid and acknowledged by the parties, the parties agree as follows:

1. Fair agrees that it will re-develop the Property substantially in conformance with the Plan to be completed by the Fair on or before December 31, 2008, and submitted to the County for approval (the "Re-development"). Any substantial deviation in the execution of the Plan by Fair shall be subject to review and approval by County, which approval shall not be unreasonably withheld, delayed or conditioned. The implementation of the Plan and construction of any improvements on the Fairgrounds shall be expressly subject to the financial stability and ability to pay of the Fair.
2. Within ninety (90) days of the date of this Agreement, Fair will enter into an agreement for development of a Master Plan. The Fair shall inform the County of the consummation of said agreement. The Fair agrees that the Re-development pursuant to the Plan shall be pursued and undertaken in accordance with the timeline presented with the Master Plan and approved by the County.
3. Fair agrees to present periodic updates regarding the status of the Re-development to the County, in such form (written or verbal presentations) as the County may reasonably require. Such updates shall be provided no less frequently than every twelve months from the date of closing on the conveyance of the Property until

substantial completion of the Re-development. Such updates shall include at a minimum the construction status of the Re-development, and the amount and source of funds expended or to be expended by Fair through the date of such update for implementation of the Plan.

4. The personal relationships established by and between the principals of the parties hereto are important and significant to the County. Based thereon, Fair agrees to provide written notice to the County of any change in the officers or directors of the Fair before or at the same time as such changes are reported officially to the State of Florida Division of Corporations. In addition, the County agrees to appoint one of the Commissioners to serve on the Board of Directors of the Fair. Currently, that Commissioner is Dave Russell.
5. In the event that Fair is in default of any of the obligations herein, then Fair agrees to pay the County as liquidated damages the sum of Ten Percent (10%) of the annual net revenues of the prior year's Fair, or \$5,000 (five thousand dollars), whichever is greater. If Fair does not remain in default for more than twelve (12) consecutive months, the Fair shall not be liable for damages, including liquated damages, hereunder.
6. Upon closing of the conveyance of the Property from County to Fair, Fair shall post a performance bond with a surety authorized to do business in Florida or alternatively provide County with a letter of credit to be held in escrow by an agent acceptable to the County ("Escrow Agent"), in the amount of one year's liquidated damages pursuant to the above default penalty, which bond or letter of credit shall be released by County upon Substantial Completion of the Plan by Fair. Any documents securing the undertakings provided herein shall be available for inspection, retention or copying by County at reasonable times under reasonable conditions. Required bond or letter of credit coverage shall remain in force and effect at all times and shall be adjusted as may be required by the terms of paragraph 5.
7. Fair shall be in default hereof if Fair sells or otherwise assigns its interest in the Property without the prior written consent of the County.
8. Because of the possibility of reverter under the conveyances, the County desires and the Fair agrees that protection be provided to mitigate any liability the County may assume in the future with respect to outstanding liens or other encumbrances on the Property. Therefore, the Fair shall not take any action to encumber the Property, whether through financing of improvements or otherwise, unless any such lien or encumbrance has first been approved by the County, or is for an



amount not exceeding Fifty Thousand and No/100 Dollars (\$50,000.00) as adjusted every five (5) years for inflation.

9. Effective Date and Duration. This Agreement shall take effect upon the closing of the conveyances provided for in the MOA (the "Effective Date"). This Agreement shall terminate upon the Substantial Completion of the Re-development or by operation of applicable law, whichever occurs last.
10. No Waiver. Failure of or forbearance on the part of either party with respect to enforcing a default of this agreement shall not waive the right of either party to seek any or all available remedies for any continuing or subsequent default.
11. Force Majeure. The parties agree that failure or delay of the County or Fair in performing any of the terms of this Agreement shall be excused if and to the extent the failure or delay is caused by any acts of God, wars, fires, strikes, floods, weather, or any law, ordinance, rule or regulation beyond the control of the County or the Fair.
12. Entire Agreement. This Agreement contains the entire Agreement of the parties as to the subject matter herein as it is the specific intent of the parties that this Agreement alone sets forth the terms and conditions on which the parties have mutually agreed. No oral statements, representations or prior written matter relating to the subject matter herein, but not contained herein, shall have any force or effect.
13. Modification. No modification of this Agreement shall be valid or binding unless such modification is in writing and duly executed by both the Fair and the County, or their respective successors or assigns.
14. Binding Effect. This Agreement shall be binding upon the respective successors, administrators, executors, heirs, and assigns of the parties hereto.
15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and same instrument.
16. Authority. This Agreement is entered into by the County pursuant to Florida law including, but not limited to, Chapter 125, Fla. Stat.
17. Governing Law: Disputes. This Agreement shall be interpreted and construed in accordance with the laws of Florida. Any dispute to this Agreement shall be litigated in circuit court in Hernando County, Florida. Each party shall be

responsible for its own costs and attorneys fees in the event of any dispute, claim, action or appeal.

18. Notices hereunder shall be given, if to the Fair, to:

Hernando County Fair Association, Inc.  
6436 Broad Street  
Brooksville, FL 34601  
ATTN: General Manager

And, if to the County, to:

Hernando County  
County Administrator  
20 N. Main Street, Rm. 460  
Brooksville FL 34601

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this  
27<sup>th</sup> day of May, 2008.

ATTEST:


HERNANDO COUNTY FAIR ASSOCIATION, INC.

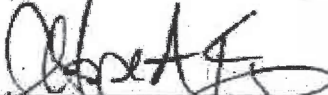
  
Cathy DeHoff, Secretary

By:   
Joe Bernardini, President

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

  
KAREN NICOLAI  
CLERK OF CIRCUIT COURT

By:   
CHRISTOPHER A. KINGSLEY  
CHAIRMAN

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

 KW  
4/29/08  
Assistant County Attorney