

Resolution No. 2016- 272

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A RENEWAL AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND ST. JOHNS CULTURAL COUNCIL, INC. TO PROVIDE MARKETING AND PROMOTIONAL SERVICES AIMED AT ATTRACTING TOURISTS ACTIVITY TO ST. JOHNS COUNTY, FLORIDA AS WELL AS MANAGING THE ARTS AND CULTURAL GRANT PROGRAM; AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.

WHEREAS, on February 2, 2010, the County entered into an agreement with the St. Johns Cultural Council, Inc. ("Cultural Council") to provide marketing and promotional services aimed at attracting tourists to the St. Johns County, Florida geographic area as well as managing the arts and cultural grant program; and

WHEREAS, said agreement, as amended, provides for a term that expires on September 30, 2018; and

WHEREAS, unless otherwise terminated, the current agreement further provides for two-year renewals with Board of County Commission approval; and

WHEREAS, the County and the Cultural Council mutually seek a continuation of the services described above, subject to the terms and conditions contained in the proposed Renewal Agreement, attached hereto and incorporated herein; and

WHEREAS, the County has reviewed the terms, provisions, conditions and requirements of the proposed Renewal Agreement; and

WHEREAS, the County has determined that entering into the proposed Renewal Agreement serves a proper public purpose and is in the best interests of the citizens of St. Johns County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

- Section 1. The above Recitals are hereby incorporated into the body of this Resolution and are adopted as findings of fact.
- Section 2. The Board of County Commissioners ("Board") hereby approves the terms, provisions, conditions, and requirements of the Renewal Agreement.

Section 3. The Board authorizes the County Administrator, or designee, to execute the Renewal Agreement on behalf of the County.

Section 4. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or concept, of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 6 day of September 2016.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: _____

Jeb S. Smith
Jeb S. Smith, Chair

Attest: Hunter S. Conrad, Clerk

Pam Halterman

Deputy Clerk

RENDITION DATE 9/8/16



THIS RENEWAL AGREEMENT is entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida ("County"), by and through its Board of County Commissioners ("BCC"), whose address is 500 San Sebastian View, St. Augustine, Florida 32084, and St. Johns Cultural Council, Inc., a not-for-profit corporation organized and existing under the laws of the State of Florida ("Cultural Council") whose primary business address is 15 Old Mission Avenue, Saint Augustine, Florida 32084.

RECITALS:

WHEREAS, on July 1, 2011, the County entered into an agreement with the Cultural Council to (i) market St. Johns County as an arts, cultural and heritage tourist destination, (ii) manage the Arts and Culture grant program, and (iii) perform other duties as directed by the St. Johns County Tourist Development Council ("TDC"); and

WHEREAS, the agreement provides for an initial term that expires on September 30, 2014; and

WHEREAS, unless otherwise terminated, the agreement further provides for two-year term extensions upon approval of the BCC; and

WHEREAS, the County and the Cultural Council mutually seek renewal of the agreement subject to the amended terms and conditions contained herein; and

WHEREAS, the County has determined that entering into this Renewal Agreement serves a proper public purpose and is in the best interests of the residents of St. Johns County.

NOW THEREFORE, for valuable consideration, the sufficiency of which is hereby acknowledged, the County and the Cultural Council agree as follows:

ARTICLE 1. Incorporation of Recitals.

The above Recitals are incorporated into the body of this Renewal Agreement, and such Recitals are adopted as findings of fact.

ARTICLE 2. Non-Exclusive Appointment.

The County hereby appoints the Cultural Council, and the Cultural Council hereby accepts such appointment, to provide the amended Scope of Services described in this Renewal Agreement in accordance with industry standards of professional practice and in accordance with any applicable laws, regulation or other requirements of any governmental agencies that have jurisdiction over such work.

ARTICLE 3. Term and Extension.

a. This Renewal Agreement shall be effective on October 1, 2016, and shall expire on September 30, 2018 ("Initial Term").

b. Provided that this Renewal Agreement has not been terminated by either party in accordance with the provisions contained herein prior to the end of the Initial Term, this Renewal Agreement may be extended for two (2) year periods (each 2-year period is an "Extended Term"). The Initial Term, together with any Extended Term(s), shall constitute the Full Term of this Renewal Agreement.

c. While this Renewal Agreement may be extended as stated in this Article, it is expressly understood that the County is under no obligation to extend this Renewal Agreement beyond the Initial Term.

d. The option of renewal is exercisable only upon approval by the BCC based on the Cultural Council's satisfactory performance of the amended Scope of Services as determined in accordance with Article 10 of this Renewal Agreement, entitled "Periodic Evaluation."

ARTICLE 4. Termination.

a. This Agreement may be terminated by either party without cause by providing at least sixty (60) days advance written notice to the other party of such notice of termination without cause.

b. This Agreement may be terminated with cause by either party, subject to the Notice requirements provided in Article 12 and the Right to Cure provided in Article 13, as applicable. Notice of either party's intent to terminate this Renewal Agreement for cause shall be in writing, indicate the exact cause for termination and include the effective date of termination of this Renewal Agreement.

c. Consistent with other provisions of this Renewal Agreement, the Cultural Council shall be reimbursed for any expenses that were both authorized under this Renewal Agreement and performed or accrued prior to the effective date of the termination of this Renewal Agreement.

ARTICLE 5. Amended Scope of Services.

The Cultural Council shall use all reasonable efforts (1) to perform all tasks included in the amended Scope of Services, attached hereto as Attachment A and incorporated herein; (2) to perform any duties or obligations arising from the amended Scope of Services or as described elsewhere in this Renewal Agreement; (3) to timely deliver the reports and other items included within the amended Scope of Services; and (4) perform other duties as approved by the BCC.

ARTICLE 6. Compensation/Reimbursement.

a. It is expressly noted that the County will compensate and reimburse the Cultural Council from only those tax revenue sources that are legally available and

appropriated for this purpose in the official County budget at the time payment is due to the Cultural Council.

b. For the duration of this Renewal Agreement, the maximum amount available as compensation and reimbursable expenses to the Cultural Council shall be the amount that is officially appropriated by the BCC to the Arts and Culture Category of Uses in accordance with the St. Johns County Tourist Development Plan, as amended, and in accordance with section 125.0104 of the Florida Statutes.

c. The Cultural Council shall not be entitled to such compensation and reimbursable expenses as a matter of right, but only to the extent of the Cultural Council's satisfactory provision and performance of the amended Scope of Services.

ARTICLE 7. No Commitment of County Funds.

It is hereby noted and understood by the parties that the County makes no express commitment to provide funds (in the form of tax revenue proceeds or otherwise) in any given County Fiscal Year. Moreover, it is expressly noted that the Cultural Council cannot demand that the County provide any such funds in any given County Fiscal Year.

ARTICLE 8. Billing, Invoicing and Payment.

a. To the extent that the Cultural Council is not in breach of this Renewal Agreement and this Renewal Agreement has not been terminated, the Cultural Council may bill the County in accordance with the St. Johns County Cultural Council Budgeting Procedures and Payment Processing guidelines attached hereto as Attachment B, and incorporated herein by this reference.

b. The Cultural Council may bill/invoice the County weekly in accordance with the Budgeting Procedures and Payment Processing guidelines. The Cultural Council shall submit invoices in substantially the same form and format as the sample invoice provided in Attachment B. All bills/invoices submitted to the County shall include the Cultural Council Invoice Summary Sheet which shall include sufficient detail of the work accomplished in connection with the amended Scope of Services. Unless otherwise notified, bills and invoices shall be delivered to:

**Executive Director – Tourist Development Council
500 San Sebastian View
St. Augustine, Florida 32084**

c. Within fifteen (15) days following its receipt of the Cultural Council's bill or invoice, the County shall verify it. Within fifteen (15) days following the County's verification of the bill or invoice, the County shall forward payment thereof to the Cultural Council. The County reserves the right to return any bill/invoice from the Cultural Council, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.

d. Notwithstanding any other provision contained herein concerning amendment of this Renewal Agreement, the County may at any time reasonably modify the procedure set forth in this Article, upon thirty (30) days advance notice to the Cultural Council, in order to accommodate the budgetary concerns or procedures of the County.

ARTICLE 9. Purchasing Procedures.

In performance under this Renewal Agreement, the Cultural Council shall abide by and follow all of the applicable provisions set forth in the St. Johns County Purchasing Procedures, attached hereto as Attachment C and incorporated herein. It is expressly noted that, upon reasonable notice by the County, the Purchasing Procedures contained herein may be amended during the Initial Term or any Extended Term.

ARTICLE 10. Periodic Evaluation.

a. Annually, the St. Johns County Tourist Development Council shall evaluate the Cultural Council's performance under this Renewal Agreement, specifically as it relates to performance of the amended Scope of Services.

b. Such Periodic Evaluation shall determine the degree and level of the Cultural Council's performance of the amended Scope of Services. The Periodic Evaluation shall also examine the Cultural Council's degree of effectiveness in meeting the criteria and performance measures detailed in the Cultural Council's Annual Strategic Plan as reviewed by the TDC and approved by the BCC.

c. If, after any Periodic Evaluation, the TDC, determines that there is any substandard, incomplete, or unacceptable performance on the part of the Cultural Council, or that the Cultural Council has breached one or more provisions of this Renewal Agreement, the TDC shall make a recommendation to the BCC of that prompt, written notice of default be provided to the Cultural Council, as provided elsewhere in this Renewal Agreement.

ARTICLE 11. Default.

Events of Default shall include any of the following:

- a) Failure by either party to comply with one or more terms, provisions, conditions, requirements, or obligations set forth in this Renewal Agreement;
- b) Substandard performance in one or more evaluative areas, as noted in a Periodic Evaluation as provided for elsewhere in this Renewal Agreement;
- c) Assignment of this Renewal Agreement by either party without the prior written approval of the other party;
- d) Failure by the County to pay, for a period exceeding ninety (90) days, any amounts due and owing for authorized work performed by the Cultural Council;
- e) Failure by the County to appropriate funding for the Services and/or expenses noted in this Renewal Agreement;

- f) Exhaustion of the funds appropriated for the Services and/or expenses provided for in this Renewal Agreement; ;
- g) A subsequent revision/change/amendment to State law that would prohibit the County and the Cultural Council from entering into, or continuing, this Renewal Agreement; and
- h) Failure by the Cultural Council to comply with Chapter 119, Florida Statutes (Florida Public Records Law).

ARTICLE 12. Notice of Default and Right to Cure.

a. Should either party default (fail to perform) under the terms of this Renewal Agreement, the non-defaulting party shall provide written notice to the defaulting party, which notice shall include a timeframe of no fewer than thirty (30) calendar days in which to cure the default. In the event the defaulting party fails to cure the default within the timeframe provided in the original notice of default (or any such other amount of time mutually agreed to by the parties in writing), the non-defaulting party may exercise any or all of its administrative or legal remedies. Notwithstanding any other provision contained in this Renewal Agreement, Events of Default based upon the County's non-appropriation of funds or amendments to State law shall not be subject to a right to cure as provided herein.

b. For any alleged breach or violation of this Renewal Agreement that may give rise to either an administrative or judicial action, or both, against the County, the Cultural Council must provide written or electronic notice to the County within thirty (30) calendar days following the occurrence of the alleged breach or violation. It is acknowledged that this paragraph provides a means of notice that is different from that which is provided in the preceding paragraph.

ARTICLE 13. Remedies Upon Default.

Upon the occurrence of an Event of Default or of any other breach or violation of this Renewal Agreement, the other party, after giving notice and allowing the defaulting party the opportunity to cure as provided elsewhere in this Renewal Agreement, may at any time during the continuance of any default:

- a. terminate this Renewal Agreement for cause; and
- b. utilize any and all other remedies now or hereafter existing under the common law or statutory law of the State of Florida.

All remedies granted hereunder shall be cumulative and not exclusive.

ARTICLE 14. Force Majeure.

Neither party shall be held in non-compliance with the terms, conditions, provisions, or requirements of this Renewal Agreement, nor suffer any enforcement or penalty relating thereto (including termination, cancellation, or revocation of this Renewal Agreement) if such non-compliance or alleged default occurred or was caused by a strike, riot, war, earthquake,

flood, tsunami, severe rainstorm, hurricane, or other act of nature, or other event that is reasonably beyond either party's ability to anticipate or control.

ARTICLE 15. Notice.

a. Any notice to the **County** that is permitted or required hereby shall be delivered either by hand (receipt of delivery required) or by certified mail to:

County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

With copies to:

Executive Director—Tourist Development Council
500 San Sebastian View
St. Augustine, Florida 32084

Office of the County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

b. Any notice to the **Cultural Council** that is permitted or required hereby shall be delivered either by hand (receipt of delivery required) or by certified mail to:

Executive Director—St. Johns Cultural Council, Inc.
15 Old Mission Avenue
Saint Augustine, Florida 32084

c. All other correspondence, not constituting official notice hereunder, may be delivered, disseminated, or submitted by any means acceptable to both parties, specifically including, faxing, e-mailing, or text messaging.

ARTICLE 16. Insurance.

The Cultural Council, its consultants and sub-consultants shall, at their sole expense, procure and maintain, for the Full Term of this Renewal Agreement (including any extension of this Renewal Agreement), insurance coverage of the types and in the minimum amounts set forth below:

- A. Workers' Compensation—Employer Liability coverage shall provide minimum limits of \$100,000 for each accident; \$500,000 disease policy limit; and \$100,000 each employee disease limit.

B. Commercial General Liability coverage shall provide minimum limits of \$1,000,000 per occurrence; \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:

1. Premises/operations
2. Products/complete operations
3. Contractual liability
4. Independent Contractors

C. Business Auto Liability coverage shall provide minimum limits of \$1,000,000 per occurrence; and \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:

1. Owned autos
2. Hired autos
3. Non-owned autos (i.e., leased/borrowed/rented vehicles)

D. Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

In the event of unusual circumstances, the County may adjust the insurance requirements set forth above. Prior to the execution of this Renewal Agreement, the Cultural Council shall provide to the County a certificate of insurance, naming the County as an additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies. Failure to maintain any or all required insurance shall result in the automatic termination of this Renewal Agreement, without the necessity of providing any further written notification of termination.

ARTICLE 17. Indemnification.

The Cultural Council shall indemnify, defend and hold harmless the County, its officials, agents, servants and employees from and against any and all losses, costs, suits, and administrative actions, arbitration, or mediation, arising from, or incident to, connected with, associated with, or growing out of any direct and/or indirect negligent or intentional acts or omissions on the part of the Cultural Council, its agents and/or representatives, in connection with its performance of, or its failure to perform, the amended Scope of Services, terms and conditions set forth in this Renewal Agreement.

ARTICLE 18. Public Records.

The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Renewal Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records,

may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

b. In accordance with Florida law, to the extent that the Cultural Council's performance under this Renewal Agreement constitutes an act on behalf of the County, then the Cultural Council shall provide access to all public records made or received by the Cultural Council in conjunction with this Renewal Agreement. Specifically, if the Cultural Council is expressly authorized by, and acts on behalf of the County under this Renewal Agreement, the Cultural Council shall:

- (1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the amended Scope of Services described herein;
- (2) provide the public with access to public records related to this Renewal Agreement on the same terms and conditions that the County would provide the records, and at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by applicable law;
- (3) ensure that public records related to this Renewal Agreement that are exempt or confidential and exempt from public disclosure are not disclosed except as authorized by applicable law; and
- (4) meet all requirements for retaining public records, and transfer at the Cultural Council's sole cost and expense, all public records in the possession of the Cultural Council upon expiration or termination of this Renewal Agreement. The Cultural Council shall destroy any duplicate records that are exempt or confidential and exempt from public disclosure requirements in accordance with applicable State and Federal provisions. Any public records stored electronically must be provided to the County in a format that is compatible with information technology systems maintained by the County.

c. Notwithstanding any other provision contained herein, failure by the Cultural Council to grant public access to records in accordance with the Florida Public Records Law shall constitute an Event of default as defined herein. The Cultural Council shall promptly provide the County notice of any request to inspect or copy public records related to this Renewal Agreement in the Cultural Council's possession and shall promptly provide the County a copy of the Cultural Council's response to each such request.

ARTICLE 19. Review of Cultural Council Records.

As a condition of entering into this Renewal Agreement and to ensure compliance with any applicable law, rule, regulation or policy, the Cultural Council authorizes the County to examine, review, inspect or audit the books and records of the Cultural Council in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights and responsibilities set forth in this Renewal Agreement. The Cultural

Council shall be under no duty to provide access to any documentation that is not related to this Renewal Agreement or that is otherwise protected by applicable Local, State or Federal regulations.

ARTICLE 20. Ownership of Documents and Equipment

a. Upon completion of the Services, all renderings, drawings, designs, specifications, renderings, notebooks, tracings, photographs, negatives, reports, findings, recommendations, software, furnishings, source codes, data and memoranda of every description, arising out of or relating to the Services, as well as all reference books, equipment, expendable equipment and materials purchased with Tourist Development Tax revenues shall become the property of the County.

b. The use of such materials described above by the County in any manner shall not support any claim by the Cultural Council for additional compensation.

c. The Cultural Council shall have no liability to the County for damages, claims or losses, including defense costs, arising out of use by the County of the aforementioned items in a manner that is inconsistent with any corresponding licenses or approvals assigned to the County. Additionally, the Cultural Council shall have no liability to the County for the County's use of such items for any purpose other than as set forth in this Renewal Agreement.

ARTICLE 21. Ownership of Deliverables/Work Product

a. It is expressly noted that all work product and deliverables, including final work product, submitted by the Cultural Council to the County that are associated with the Services detailed in this Renewal Agreement, shall become the property of, and owned and controlled by the County, upon receipt and payment by the County.

b. By way of illustration, but not limitation, all slogans, ideas, or plans submitted or developed by the Cultural Council for the County during the term of this Renewal Agreement, whether or not used, and, any and all, layouts, copy, art work, electronic files, films, digital impressions, and other tangible material, of whatever form, format, content, or creative or technological design, which the Cultural Council prepares for the County that is associated with the above-referenced Services, shall become the property of, and owned and controlled by the County, upon receipt and payment to the Cultural Council of any applicable periodic bill/invoice.

c. All tangible and intangible property acquired in conjunction with the amended Scope of Services, detailed in this Renewal Agreement, shall be the property of the County, and may be used for the promotion of the County. The County reserves the right of final approval of the disposition of said property.

ARTICLE 22. Effect of this Renewal Agreement.

This Renewal Agreement amends and modifies provisions of the original agreement between the County and the Cultural Council, executed on July 1, 2011, and effective July 8, 2011 through and until September 30, 2014 ("Original Agreement"). If there is any inconsistency between this Renewal Agreement and the Original Agreement, this Renewal Agreement shall govern.

ARTICLE 23. Assignment.

In light of the scope and rationale for this Renewal Agreement, neither the County nor the Cultural Council, without the prior express written approval of the other party, may assign, transfer, or sell any of the rights noted in this Renewal Agreement. Should either the County or the Cultural Council assign, transfer, or sell any of the rights noted in this Renewal Agreement, without such prior express written approval of the other party, such action shall result in the automatic termination of this Renewal Agreement without further notice or action required.

ARTICLE 24. Merger and Amendment.

This Renewal Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Renewal Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters. Both the County and the Cultural Council mutually agree that any amendments to this Renewal Agreement shall be in writing and shall be executed by duly authorized representatives of both the County and the Cultural Council.

ARTICLE 25. Disputes.

In the event a dispute should arise relating to either party's performance under this Renewal Agreement, the parties agree to use good faith efforts to resolve the dispute without resort to judicial or quasi-judicial authorities. In the event such good faith efforts fail to resolve the dispute, either party may seek relief or redress in the courts. Each party irrevocably submits itself to the personal jurisdiction of the courts of the State of Florida, St. Johns County, and the personal jurisdiction of the United States District Court for the Middle District of Florida, Jacksonville Division, for the purpose of any suit, action or other proceedings arising out of or in connection with this Renewal Agreement or its subject matter. Each party agrees that it will bring any such proceeding only in one of such courts.

ARTICLE 26. Discrimination.

The Cultural Council shall conform to the following Equal Employment Opportunity Statement: No person shall, on the grounds of race, creed, color, handicap, national origin, sex, age, political affiliation or beliefs be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under, any program or activity funded in whole, or in part, with funds made available by the County.

ARTICLE 27. Compliance with Local, State, and Federal Rules, Regulations, and Laws.

The County and the Cultural Council shall abide by, and comply with, all Local, State and Federal laws, statutes, rules, regulations, orders, and policies by which that party is legally bound and governed.

ARTICLE 28. Relationship of the County and the Cultural Council.

This Agreement shall not be deemed or construed to create any agency relationship, partnership (limited or otherwise), association or joint venture between the County and the Cultural Council.

ARTICLE 29. No Conflict of Interest.

The Cultural Council represents and warrants to the County that the Cultural Council has not employed or retained any elected official, officer or employee of the County in order to secure this Renewal Agreement. Moreover, the Cultural Council represents and warrants to the County that the Cultural Council has not paid, or offered to pay or agreed to pay any person any fee, commission, percentage, brokerage fee, incentive fee or gift of any kind contingent upon or in connection with securing and executing this Renewal Agreement.

ARTICLE 30. Use of the County Logo and Publicity.

a. Pursuant to, and consistent with, County Ordinance 92-2 and County Administrative Policy 101.3, the Cultural Council may not manufacture, use, display or otherwise use any facsimile or reproduction of the County Seal/Logo without the express written approval of the BCC.

b. Use of any County trademarks, service marks and/or trade names by the Cultural Council in any marketing, promotional, sponsorship or advertising materials and/or activities shall be subject to pre-approval by the County.

ARTICLE 31. Governing Law and Venue.

This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Renewal Agreement shall be in St. Johns County, Florida.

ARTICLE 32. Cultural Council's Status as Independent Contractor.

The Cultural Council shall be, and shall act as, an independent contractor of the County, and the employees of the Cultural Council shall not be considered to be employees of the County.

ARTICLE 33. No Third Party Beneficiaries.

Both the County and the Cultural Council expressly agree, and this Renewal Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 34. Effect of Failure to Insist on Strict Compliance with Conditions.

The failure of the either party to insist upon strict performance of any term, condition, provision and/or requirement of this Renewal Agreement shall not be construed as a waiver of such term, condition, provision and/or requirement on any subsequent occasion.

ARTICLE 35. Severability.

If any word, phrase, sentence, part, Article, or other portion of this Renewal Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Renewal Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.

ARTICLE 36. Waiver.

The failure of either the County or the Cultural Council to object or to take affirmative action with respect to any conduct of the party that is in breach or violation of the terms, conditions, provisions, or obligations of this Renewal Agreement, shall not be construed as a waiver of the violation or breach, or waiver of any future violation, breach, wrongful conduct, or omission.

ARTICLE 37. Survival.

Any term, condition, covenant, or obligation, which requires performance by a party subsequent to expiration or termination of this Agreement, shall remain enforceable against such party subsequent to such expiration or termination.

ARTICLE 38. Headings.

All Articles and descriptive headings of Articles noted in this Renewal Agreement are inserted for the convenience of the parties only, and shall not affect or control the interpretation of this Renewal Agreement.

ARTICLE 39. Authority to Execute.

Each of the parties hereto covenants to the other party that it has lawful authority to enter into this Renewal Agreement and has authorized the execution of this Renewal Agreement by the party's authorized representative.

ARTICLE 40. Execution in Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have hereto executed this Renewal Agreement on the date and year below written.

St. Johns County

St. Johns Cultural Council, Inc.

By: _____
Jeb S. Smith, Chair

President

Date: _____

Date: _____

Legal Review:

Legal Review:

Senior Assistant County Attorney

Counsel for St. Johns Cultural Council, Inc.

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk

ATTACHMENT A

AMENDED SCOPE OF SERVICES

The Cultural Council shall complete the following work.

1. The Annual Arts, Culture and Heritage Strategic Marketing Plan

a. By no later than the end of business, the Friday of the second week of June of each subsequent year that this Renewal Agreement is in effect, the Cultural Council shall submit to the County an electronic copy and twelve (12) hard copies of the comprehensive Strategic Marketing Plan ("Plan"). The form and format of the Plan shall be mutually agreed upon by the County and Cultural Council in advance, and will:

- i. articulate Arts, Culture and Heritage ("ACH") program objectives, strategies, and other considerations that impact the Plan's content;
- ii. include a set of specific actions to support the ACH tourism industry to generate room nights and incremental economic activity in the County;
- iii. include the following general aspects of ACH marketing: Advertising, Branding, Customer Relationship Management (CRM), Direct Marketing, Event Planning, Internet Marketing, Loyalty Marketing, Market Research, Marketing Communications, Media Relations / Publicity (Earned Media), Promotion Sales Management and Support, Search Engine Optimization (SEO), Strategic Planning, Travel Trade/Consumer Direct, Social Media Promotion, Website design and maintenance, Collateral Materials, Familiarization, Tour Programs, Festival/Event Promotion, Product Development including Grant Programs and Motion Picture & TV Promotion; and
- iv. be organized in sections (and subsection as needed) outlining the aspects of ACH marketing to be performed by the Cultural Council (i.e., advertising, branding, etc.). Each section will include specific aspect objectives, strategic goals, and quantifiable performance measures. Such performance measures will be the basis for regular performance reports by the Cultural Council to the County, and the subject of Periodic Evaluations as described in the Renewal Agreement. The Plan sections must be in sufficient detail to permit the County to evaluate compliance with applicable laws governing the expenditure of Tourist Development Tax revenues.

b. The Cultural Council shall submit the Plan to the County for review and initial consideration by the TDC at the regularly scheduled June meeting. Upon its approval of the Plan, the TDC shall submit the Plan, along with a proposed budget for the corresponding fiscal year to the BCC for final consideration and approval. Only after approval of the Plan and the proposed budget by the BCC, should the Cultural Council's implementation of the Plan begin.

2. Co-operative Advertising, Promotions & Events

The Cultural Council shall:

- i. leverage the County's tourism marketing investment with private sector cultural and heritage investments through the development of co-operative advertising and promotional programs; and
- ii. monitor private sector investments in destination promotion on behalf of the County and report levels to the Tourist Development Council quarterly. Funds contributed by private sector co-operative investments will be used for additional promotion of St. Johns County, Florida as a tourist destination.

3. Budget

By no later than the end of business, the last day of March of each subsequent year that this Renewal Agreement is in effect, the Cultural Council shall submit preliminary line item budget projections for the following fiscal year based on the revenue projections provided by the TDC.

By no later than the end of business, the Friday of the second week of June of each subsequent year that this Renewal Agreement is in effect, the Cultural Council shall submit to the TDC a comprehensive proposed budget for initial review and consideration. Among other things, the proposed budget shall include all programs, services, activities, initiatives, resources and other items included in the Plan that require an expenditure of Tourist Development Tax revenues. Unless authorized in advance by the County, expenditures on any program, service, activity, initiative, resource or other item not included in the budget will not be eligible for funding or reimbursement. Final approval of the budget shall be by the BCC.

4. ACH Cultural Tourism Development Workshops

- a. The Cultural Council shall conduct at least two (2) annual workshops. The purpose of such workshops shall be to receive input from the local community related to topics in this amended Scope of Services. Topics addressed in each workshop shall include, but is not limited to, the status of existing initiatives, suggestions for new programs and a discussion of relevant trends.
 - i. All workshops shall be open to the public;
 - ii. Reasonable notice of each workshop shall be provided to the TDC Executive Office in advance for publication on the County's website;
 - iii. Minutes shall be taken during each workshop. A copy of the minutes shall be provided to the TDC Executive Office by no later than three weeks following the workshop.

b. Workshop participants should have appropriate professional qualifications as applicable, and their participation shall not be conditioned upon Cultural Council membership.

5. Third Party Contracts for Professional Services

Upon approval by the County, and in accordance with applicable County policies and procedures, the Cultural Council may procure and contract professional services for advertising, publicity, website development, inquiry fulfillment, social media and other related services.

6. Status Reports and Analyses

a. The Cultural Council shall provide regular reports to the TDC showing progress and effectiveness. The County may also use data collected illustrating the Cultural Council's influence on visitors' decision to visit and surveys of tourism industry stakeholders in the evaluation of the Cultural Council's performance, provided that such data collection and surveys' methodologies, execution and reporting are mutually agreed upon by the Cultural Council and the County.

b. In addition to the ACH section of the Annual Tourism Development Plan, the Cultural Council shall submit regular reports for inclusion in the TDC meeting agenda package which shall be sent approximately one week before the meeting date. The reports will list the status of performance measurements contained in the Plan and the results to date in a format to be provided by the County.

c. An annual report shall be submitted to the TDC for review and discussion at their January meeting or the first regular meeting after December.

7. Meetings

a. TDC Meetings: The Executive Director of the Cultural Council shall attend TDC meetings, and provide a report regarding the status of performance measures identified in the Plan.

b. Cultural Council Meetings: The Tourism and Cultural Development Director should attend all Cultural Council board meetings. Cultural Council Board meetings at which County funded projects are discussed, should comply with and are subject to the Sunshine Law, and notice of meetings should be posted in advance at a publically accessible venue and/or on a website.



ATTACHMENT B

CULTURAL COUNCIL BUDGETING PROCEDURES AND PAYMENT PROCESSING

Budgeting Procedures, Prepaid Expenditures and Monthly Reimbursable Expense Statements

The Fiscal Year used by the County and the Cultural Council is October 1st through the following September 30th.

- Any expenditures originating after October 1st will be counted in the respective fiscal year that started October 1st.
- Expenditures originating during a given fiscal year will be counted in that year as long as:
 - Receipts for items are received by the County no later than October 5th of the following fiscal year (the date may vary from year to year as established by the County.)
 - Receipts received after this date will be attributed to the new fiscal year without any adjustment to the **Arts and Culture Category** beginning fund balance for the then-current fiscal year.

On or about March 1st each year, the County will provide the Cultural Council with an estimated beginning balance and new revenue amounts for the next fiscal year for purposes of establishing their budget paid from the **Arts and Culture Category** budget.

- By no later than the end of business, the last day of February of each subsequent year that this Renewal Agreement is in effect, the Cultural Council will provide to the TDC, estimated year-end expenditures for the current fiscal year.
- By no later than the end of business, the last day of March of each subsequent year that this Renewal Agreement is in effect, the Cultural Council shall submit preliminary line item budget projections for the following fiscal year based on the revenue projections provided by the TDC. The budget line numbers and descriptions are below.

1147- 51000 PERSONNEL SERVICES
53100 PROFESSIONAL FEES / RESEARCH
53120 CONTRACTUAL SERVICES (Janitorial/IT
53150 CONSULTING SERVICES
53401 INDIRECT ADMIN FEES
53728 ACH GRANTS (CAT 2)
54000 TRAVEL & PER DIEM
54010 TRADE SHOWS/CONVENTIONS (Registrations)
54100 COMMUNICATIONS

54102 INQUIRY SERVICES
 54110 POSTAGE
 54112 BROCHURE DISTRIBUTIONS
 54300 UTILITIES
 54400 LEASE/RENTAL EQUIPMENT
 54401 LEASE/RENTAL BUILDING (Office & Offsite Storage)
 54500 INSURANCE (Building Equipment Furnishings)(Not Liability
 For Cultural Council Board)
 54801 SPECIAL EVENTS
 54804 PUBLIC RELATION SERVICES
 54805 IN HOUSE PUBLIC RELATIONS
 54806 SALES MISSIONS
 54900 ADVERTISING (Agency Fees, Media, Promotions)
 55100 OFFICE SUPPLIES
 55102 SOFTWARE
 55103 COMPUTER SUPPLIES
 55200 OPERATING SUPPLIES
 55401 TRAINING
 55405 DUES/MEMBERSHIP
 56403 COMPUTER EQUIPMENT
 59100 CONTINGENCY RESERVE (Requires BCC Approval to
 Amend)

A. Budget Amendments

The Cultural Council may amend the individual line budgets not more than twice in any fiscal year with the exception of any reserve lines beginning with the numbers 599, which requires BCC approval to modify.

- The total amount budgeted to the Cultural Council from the Arts, Culture & Heritage Category can only be amended by the BCC.
- The Cultural Council must notify the TDC of its intent to amend the budget at least ten (10) business days in advance.

B. Reserve Funds

In addition to any state mandated reserves, the County may at its discretion, require a budgeted reserve amount be established. Amendments from these reserve accounts will require pre-authorization by the County.

C. Prepaid Expenses & Monthly Reimbursements

The Cultural Council shall maintain a checking account in their name for the exclusive purpose of receiving Tourist Development Tax Funds from the County, and paying expenses related to Renewal Agreement.

Near the start of each new fiscal year, The TDC Executive Director will transmit a request to the County's Finance Department Director for funds equaling one-sixth of the Arts and Culture Category fiscal year budget Jess reserve and grant program funds, to be transferred to the Cultural Council's bank account for pre-paid expenses.

Beginning with the first month of the new fiscal year (October) and continuing through the tenth month (July) of the fiscal year, the Cultural Council will prepare and send to the TDC Executive Director no later than the 10th of the following month, an end-of-month Expense Reimbursement Statement (Exhibit A) showing, by budget line, the amount expended during the month, the budgeted amount for the line, and the year-to-date balance in the line. Once received, the TDC Executive Director will review the Statement, sign, and forward to the County Finance Department for payment to the Cultural Council. The Cultural Council will continue preparation of the Expense Reimbursement for the final two months of the year; however, the County will not issue a check to the Cultural Council for the reimbursement.

The Expense Reimbursement Statement will be signed by an authorized officer of the Cultural Council Board of Directors.

At the end of the fiscal year, the County will reconcile the total reimbursable expenditures with the amounts budgeted and the funds paid to the Cultural Council. The County will determine the amount, if any, overpaid or underpaid to the Cultural Council and the County's sole discretion either request repayment from the Cultural Council, adjust the amount initially paid (prepaid expenses) to the Cultural Council for the next fiscal year, or make a final year-end payment to the Cultural Council.

D. Preparation/Approval of Invoices for Payment

The Cultural Council will provide to the County a copy of all contracts/agreements that have been/are funded with Tourist Development Tax revenues.

Only expenses related to work completed in marketing St. Johns County, Florida as a tourist destination as described the amended Scope of Services are authorized and reimbursable by the County. Expenses related to soliciting members or providing membership services to existing Cultural Council partners, communications intended solely for the benefit of Cultural Council members, non-marketing activities and/or

administrative costs associated with promotion of the Cultural Council as a membership organization shall not be considered for reimbursement. Marketing and promotional activities may not solely target, showcase or highlight Cultural Council members but must be inclusive and provide equal allowances to both members and non-members.

Invoices for reimbursable Cultural Council expenses will be submitted to the TDC Executive Office on a weekly basis for processing. A cover sheet with the vendor, price, and invoice date should accompany the invoices for tracking purposes. Invoices should be submitted to the TDC for reimbursement within 60 days of receipt of services and shall be submitted with a completed copy of the invoice summary sheet. Invoices submitted to the Tourist Development Council Executive Office for payment/reimbursement should:

1. include the date indicating when the invoice was received by the Cultural Council;
2. be signed by the Cultural Council Chief Operating Office, and indicate approval for payment;
3. include the appropriate GL Code (1147-Budget Line) indicating where the expenditure was originally budgeted;
4. include supporting documentation such as proof of publishing for print advertising, notarized affidavits for broadcast media, etc.
5. include a brief description/explanation of the expenditure
6. be reviewed by Tourist Development Executive Office staff for accuracy and completeness.

Upon verification of each invoice, the Tourist Development Executive Office staff will prepare checks from the Cultural Council's account for signature by the Cultural Council. The Cultural Council will be notified when the checks are available for pickup.

E. Reimbursable Travel

The County will reimburse the Cultural Council for travel expenses as authorized under Section 125.0104(9) of the Florida Statutes and applicable revisions of the Florida Administrative Code.

The courier service furnished by the county should be utilized to reduce local travel between the St. Johns County office and Cultural Council office. Invoices for local mileage reimbursement should be submitted monthly and all other travel associated costs, should be submitted within 60 days of the completion of the trip. Requests for travel expenses (excluding local mileage reimbursement requests) should be accompanied by a completed Cultural Council Invoice Summary Sheet. Travel expenses may not be reimbursed until after travel has occurred.

Cultural Council Invoice Summary Sheet

Date Submitted _____

No. _____

Vendor Name	Description of Services Provided	Explanation of non-typical activity (e.g. large increase in typical amount paid)	Invoice Amount	GL Code (Bud Line)
Example: ABC Service Provider	Example: Printing of Summer (April – June) quarterly guide	Example: Higher than typical bill because we completed a mass mailing instead of just providing the guide to our members.	Example: \$2,500.00	Example: 54900 Advertising

I, _____, Cultural Council Director, have reviewed and agree with the charges listed above.

Cultural Council Executive Director Date

I, _____ the undersigned director of the St. Johns County Tourism and Cultural Development, have reviewed the foregoing invoice. Under penalties of perjury, I certify that, to the best of my knowledge and belief, the above is a true and correct statement of expenditures derived from business for the period indicated above and in accordance with the approved contract between St. Johns County and the Visitors and Convention Bureau.

SJC Tourism and Cultural Development Director Date

State Of Florida County of St. Johns

The Foregoing instrument was acknowledged before me this _____ day of _____, 20__ by

_____. Personally Known _____ or Produced Identification
_____ Type of Identification Produced _____.

Pay From: Acct. 1

SAMPLE INVOICE

St. Johns County Tourist Development Council
Arts, Culture & Heritage Division
St. Johns Cultural Council, Inc.

Date: XXXX, 2017

Invoice No. XXXXX

To: Tera Meeks, Executive Director
Tourism and Cultural Development

Monthly Expenses From SJCC Acct Monthly Expenses Paid from BOCC

- Dept. 1147- FY14 Budget YTD Expense BALANCE
51000 PERSONNEL SERVICES
53100 PROFESSIONAL FEES/RESEARCH
53120 CONTRACTUAL SERVICES
53150 CONSULTING SERVICES
53401 INDIRECT ADMIN
53728 SPECIAL EVENTS GRANTS
54000 TRAVEL & PER DIEM
54010 TRADE SHOWS/CONVENTIONS
54100 COMMUNICATIONS
54110 POSTAGE
FUNDING PANEL
SJCCC
54112 BROCHURE DISTRIBUTIONS
54300 UTILITIES
54400 LEASE/RENTAL EQUIPMENT
54401 LEASE / RENTAL OF BUILDING
54500 INSURANCE
56403 COMPUTER EQUIPMENT
54804 PUBLIC RELATION SERVICES
54805 IN HOUSE PUBLIC RELATIONS
54806 SALES MISSIONS
54900 ADVERTISING
Funding Panel
SJCCC Advertising
55100 OFFICE SUPPLIES
55102 SOFTWARE
55200 OPERATING SUPPLIES
55405 DUES/MEMBERSHIP
59100 TRANSFER TO FUNDS
59923 CONTINGENCY RESERVE
TOTAL

I, _____, SJCC Executive Director, have reviewed and agree with the charges listed above.

Andrew Witt, Executive Director, Cultural Council

Date

I, _____, the undersigned director of the St. Johns County Tourist Development Council, have reviewed the foregoing invoice. Under penalties of perjury, I certify that, to the best of my knowledge and belief, the above is a true and correct statement of monthly expenditures derived from business for the period indicated on the request and in accordance with the approved contract between St. Johns County and the Visitors and Convention Bureau.

Executive Director

Date

State Of _____ County of _____

The Foregoing instrument was acknowledged before me this _____ day of _____, 2013
by _____

Notary Public

Personally Known _____ or Produced Identification _____ Type of Identification Produced _____

Pay From: Acct. 1116-20101000 Vouchers Payable

ATTACHMENT C

PURCHASING PROCEDURES

All vendors must be offered equal specifications and opportunity to submit bids and/or quotations if they are to compete on equal terms.

Competitive Price Quotations & Bids

As outlined below, the Cultural Council may solicit either oral or written quotations from the open market and shall make use of available current vendors' and suppliers' price lists whenever possible.

Purchases up to \$3,000.00 are exempt from obtaining competitive quotations except as circumstances may require as determined by the Cultural Council Executive Director.

When requesting purchase quotations for items costing more than \$3,000.00 but less than \$5,000.00, verbal solicitation of quotations shall be sufficient, however, suppliers will be required to provide a written quote.

- Quotation requests for items costing between \$5,000.00 and \$20,000.00 must have a letter of quote prepared by the requester. Dollar limits shall be based upon the total order value, not on a line item basis. Under urgent conditions requiring immediate ordering action to fill Cultural Council requirements, quotations may be solicited orally then followed up with a written request for quotation from the supplier. (In all cases the written requests will be initialed by the Cultural Council Executive Director or a member of the Cultural Council Board in his or her absence.)
- Quotations for items or services exceeding \$20,000 must have a letter of quote prepared by the requester and initialed by the Cultural Council Executive Director and an officer of the Cultural Council Board. Awarding a bid for purchases exceeding \$20,000 will require approval of the Cultural Council Board of Directors. Quotes will specify terms and conditions as well as the total cost of the item(s) or service(s) including all applicable taxes and shipping/ delivery charges. (Electronically transmitted quotes or requests for quotes are considered "written" for the purpose of this Exhibit.)
- In all the above situations, it is important that each supplier be provided with identical specifications. Failure to adhere to this requirement will cause inequitable results in quotations received from suppliers and cause suppliers to lose faith in the purchasing ethics of the Cultural Council.
- If at least three quotations are not possible, the Cultural Council will make a notation on the quote request stating reasons for inability to obtain sufficient quotes, such notation will be initialed by the Cultural Council Executive Director

and a member of the Cultural Council Board. All suppliers stating no quote will be documented.

- The purchase of advertising media in all forms will be considered "sole source" based on the unique characteristics of a publication's readers, broadcast's or other medium's audience or media reach, and will be exempt from these policies. Other exempt sole source purchases are those items, programs or services that are unique and have no comparable item, program or service in the marketplace.
- All requests for purchases or contracts, except as provided below shall be advertised for sealed bids when the sum is in excess of the bid limit (\$50,000.00).

Sealed Bid Development

Formal sealed bid invitations (\$50,000.00 and up) will normally be conveyed to interested vendors by advertising the bid (Notice to Bidders) in a local newspaper or specialized publication by legal advertisement. Additionally, the advertisement will be posted electronically on the Web. Electronic advertising may be used alone or in conjunction with the legal notice.

Bid documents should not be made available to prospective bidders before the first publishing of the legal notice. (The posting electronically of the bid advertising (Notice to Bidders) constitutes a publishing).

Sealed Bid Advertisements

The Cultural Council will be responsible for publishing a Request For Proposals or a Request For Qualifications in the case of professional services, submitting the legal advertisements inviting bids and requesting legal notice from the newspaper or a screen print of a web page for each date advertisement is published.

- A Legal Notice-Advertisement for Sealed Bids will be placed once each week for at least two weeks prior to the bid opening date, in a local newspaper of general paid circulation or electronically as noted in the previous section,
 - The advertisement will contain a general description of the equipment, supplies, or services to be procured, state where specifications may be obtained, time and date of bid opening and other information as needed in the bid requirements.
 - The Cultural Council shall be responsible for documenting evidence of advertising in any format.

County Asset Property Item:

Equipment or other tangible personal property of a non-consumable nature purchased with public sector funds, the value of which is \$1,000.00 or more, and normal expected life of which is one year or more must carry a St. Johns County Property Tag and number and be available for inventory at any time by the Clerk of The Court.

Amendments/Changes to Contracts or Agreements After Award

The Cultural Council Executive Director may authorize changes/amendments for goods and/or services within the overall scope of the project of up to a cumulative amount of twenty percent (10%) or Fifty Thousand Dollars (\$25,000.00) above the original contract, whichever is higher. Any change with a dollar value exceeding \$25,000 or 10% will require approval by the TDC Executive Director and the Cultural Council Board of Directors.

If the change is outside the scope of the original project or procurement and other vendors could reasonably be assumed to provide those additional services more efficiently than the current contract holder, a new invitation for bid must be issued unless bidding would cause a significant delay or other adverse impact on the project. To avoid unnecessary delay, the Cultural Council may coordinate a change order with the existing contractor provided the existing contractor is qualified and available to perform on the new project, or is capable of securing the services of a qualified subcontractor.

Contract Requirements

The formal written agreement between a vendor or consultant and the Cultural Council Board constitutes a contract for purchasing purposes. All contracts for goods or services for the Cultural Council shall be solely between the Cultural Council and the vendor. The successful bidder/proposer shall indemnify and hold St. Johns County harmless against all loss, damage, or expense for reason of injury to person or property arising out of the use of or activities on any said premises by the successful bidder/proposer, its agents, representatives, contractors, subcontractors, or employees.

Specifications Development

In considering and developing specifications, it must always be remembered that expenditures are derived from public sources therefore, the general policy of purchasing good standard grades of merchandise that will represent an optimum of quality, price and provide a satisfactory level of service will be considered.

- Bids and quotations should be based on concise but adequate specifications. Specifications should be composed of features and designs that will satisfy the requirements of the Cultural Council and done in a manner most advantageous to the mission of bringing more visitors to St. Johns County, Florida.
- Typically the use of or request for brand name products will not be acceptable. It will be the responsibility of the bidder to convince the specify that a particular product is equal for the intended use of the item on a particular requirement or project.
- Avoid non-essential quality restrictions that add to cost and difficulty in procurement without adding to utility and value. Avoid specific requirements that will restrict competition.

- Once an invitation to bid (Notice to Bidders) has been advertised, no changes in the specifications can be made, unless an addendum is issued and all known bidders are notified.
- When possible, addendums will not be issued later than 7 days prior to bid opening. Any addendum should instruct the bidder to acknowledge receipt of addendum.
- Once a decision has been reached on the specifications, all bids being evaluated must be based upon these same specifications and no bidder has a right to substitute other specifications or provide alternate items for those contained in the bid.

Procedures Concerning Lobbying

Bidders, proposers, and those intending to qualify must abide by the following requirements: A lobbying blackout period begins upon issuance of the bid solicitation, request for proposal, request for qualifications, and continues until the Cultural Council executes a contract.

Bidders or proposers who do not abide by these rules are subject to having their Bid or Proposal or Qualifications automatically rejected, without further recourse, and shall be subject to debarment for periods up to 12 months. "Blackout" for the purposes of this policy refers to a time period during which vendors, contractors, consultants, or their agents or representatives may not communicate or lobby in any manner with Cultural Council Board members, or staff, other than the designated Cultural Council staff member(s), or designated purchasing agent. The blackout period begins once an invitation to bid, request for quote, request for proposal, invitation to negotiate, or request for qualifications has been issued. Any such communication shall disqualify the vendor, contractor, or consultant from responding to the subject invitation to bid, request for quote, request for proposal, invitation to negotiate, or request qualifications.

Immaterial or minor deviations that will not alter a bidder's position with respect to receiving the award may be waived. These deviations may be clarified with the bidder or bidders if required to allow the Cultural Council to understand the bid. Illustrative examples included:

- Failure to provide a certificate of affidavit with the bid.
- Failure to submit required proof of financial responsibility with the bid.
- Failure to submit requested brochures or catalogs with the bid.

An award will be made to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the bid documents. A cost analysis or a price analysis, as appropriate, shall be conducted by the Cultural Council prior to the awarding of bids.

Bids may not be withdrawn for the time period as specified in the "Notice to Bidders" in the specifications.

Evaluation Team

An Evaluation Team will be established in accordance with this Section for contracts of services in excess of \$100,000. (There is no reasonable expectation that a physical purchase of goods will meet or exceed \$100,000.)

- The Evaluation Team will have as a minimum, three members. At least one officer of the Cultural Council Board of Directors will serve on each Evaluation Team.
- The meeting of each Evaluation Team is a public meeting subject to Florida's Sunshine Law.

Reasonable notice of the date, time, and place of the meeting must be given, and the meeting must be held in a place accessible to the public. Minutes of the meeting shall be taken and maintained in the procurement file. Committee members shall return the evaluation forms and other material considered in the evaluation for the procurement file.

> The Evaluation Team shall rank the proposers and conduct interviews of vendors submitting proposals in accordance with the specifications for the RFP/RFQ. Each direct contract that is anticipated to cost more than \$100,000.00 in the fiscal year as opposed to one made by a qualified contractor of the Cultural Council, when the contract is made pursuant to an RFP or RFQ, shall require a ranking and interview of the top three proposers as determined by the Evaluation Team. Following the interviews, the Evaluation Team shall compile the final rankings of the top three proposers based upon the total scoring, which will at that time include a score for the interview. Presentations and interviews will comply with and are subject to the Sunshine Law, and are open meetings.

- The Evaluation Team leader will cause the tally sheets for each RFP and RFQ to be available in the offices of the Cultural Council.
- An evaluation process will be used by the Team in assessing and ranking proposals for all competitive negotiations. Selection criteria and the corresponding point score or rating assigned to each, criterion, and any minimum score required for proposals to be considered acceptable, should be provided in the RFP/RFQ specifications if possible. Otherwise, a general weighting of the selection criteria will be included in the RFP/RFQ.
- The evaluation criteria will reflect generic or project-specific indicators. Proposal evaluation criteria and the evaluation scoring system will be used objectively and consistently in assessing each proposal received.
- No member of the Evaluation Team shall have contact with any bidder or proposer, or representative, in any capacity, of any bidder or proposer during the "blackout" period.
- Each member of the Evaluation Team will be provided a copy of each proposal received along with the corresponding RFP or RFQ specifications. The team members then assess and individually score/rate each proposal using the

evaluation criteria or maximum point rating system established prior to the receipt of proposals.

- The Cultural Council Chairman of the Board will sign an affidavit attesting to the procedure being followed.