

RESOLUTION NO. 2023 - 301

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE A CONTRACT WITH ST. JOHNS CULTURAL COUNCIL, INC., FOR MANAGEMENT OF THE ARTS, CULTURAL AND HERITAGE PROGRAM, AS SPECIFIED.

RECITALS

WHEREAS, on July 1, 2011, the County entered into an agreement with the St. Johns Cultural Council, Inc, to manage the Arts, Culture and Heritage grant programs and to provide professional advertising, marketing and promotional services aimed at attracting tourists to St. Johns County; and

WHEREAS, the agreement was subsequently extended, subject to certain amended provisions, for an effective term beginning on October 1, 2016 and expiring on September 30, 2018 (RES2016-271); and

WHEREAS, in an effort to improve upon efficiency, transparency and accountability in performance of the services described above, a new agreement was executed with the Cultural Council which expires on September 30, 2023; and

WHEREAS, the scope of services was revised, removing the marketing and advertising services, and a Single Source was posted in accordance with SJC Purchasing Policy, which received a single response that was deemed non-comparable to the Cultural Council; and

WHEREAS, the County has determined that the contract services a public purpose, and is in the best interest of the County; and

WHEREAS, the contract shall be funded from the Arts, Culture and Heritage category of Tourist Development Tax (TDT) Fund.

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

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to execute a contract, in substantially the same form and format as attached, with the St. Johns Cultural Council, Inc, for performance of the specified services.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, on this 15th day of August, 2023.

Rendition Date AUG 15 2023

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: [Signature]
Christian Whitehurst, Chair

ATTEST: Brandon J. Patty,
Clerk of Circuit Court & Comptroller

By: [Signature]
Deputy Clerk



THIS AGREEMENT, (“Agreement”), is made as of this _____ day of _____, 2023, by and between **St. Johns County**, (“County”), a political subdivision of the State of Florida whose principal offices are located at 500 San Sebastian View, St. Augustine, Florida 32084, and **St. Johns County Cultural Council, Inc.**, (“Cultural Council”), a not-for-profit corporation authorized to do business in the State of Florida, whose primary business address is 184 San Marco Avenue, St. Augustine, Florida 32084. In consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE 1 CONTRACT DOCUMENTS

1.1.1 The Contract Documents consist of the following documents incorporated herein by reference:

- a) Fully Executed Amendments to this Agreement;
- b) This Fully Executed Agreement along with all Exhibits and Attachments hereto:
 - i) Exhibit A – Scope of Services
 - ii) Exhibit B – Payment Schedule
 - iii) Exhibit C – Invoice Template
 - iv) Exhibit D – Monthly Report Template
- c) Insurance furnished by Cultural Council meeting the requirements of Article XII

1.1.2 Documents not enumerated above are not Contract Documents and do not form part of this Agreement. In interpreting the Agreement and resolving any inconsistencies or ambiguities, the main body of this Agreement takes precedence over any of the Exhibits provided above unless expressly stated to the contrary.

1.1.3 Cultural Council is solely responsible for requesting instructions, interpretations, or clarifications to the Contract Documents and is solely liable for any costs and/or expenses arising from its failure to do so. Cultural Council shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Submittals and shall give immediate written notice to the Project Manager and the County of any inconsistency, ambiguity, error or omission which Cultural Council may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the County or the Project Manager of the Contract Documents or Submittals shall not relieve any such approval by evidence of Cultural Council’s compliance with the Contract. By the execution hereof, Cultural Council acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that Cultural Council has not, does not, and shall not rely upon any representation or warranties by the County concerning such documents as no such representation or warranties have been or are hereby made.

1.1.4 Any dispute relating to the Contract Documents, shall be resolved through good faith efforts upon the part of the Cultural Council and the County. Should Cultural Council have any questions concerning interpretation or clarification of the Contract Documents, Cultural Council shall submit to the County’s Project Manager, in writing, a request for clarification that clearly and concisely sets forth the issues for which such request is sought. Such request shall be submitted to the Project Manager by the Cultural Council within three (3) business days of receipt of the Contract Documents, or the direction, interpretation, or clarification thereof provided by the County. The County’s Project Manager shall render a determination concerning such interpretation or clarification, which shall be considered final and conclusive unless Cultural Council files a written protest within fourteen (14) calendar days of receipt thereof. Cultural Council’s protest shall be submitted to the Assistant Director of Purchasing & Contracts, and shall state clearly and in detail the basis thereof. Failure by the Cultural Council to protest the County Project Manager’s rendered determination within the timeframe above, shall constitute a waiver by the Cultural Council of all its rights to further protest, judicial, or otherwise. The Assistant Director of Purchasing & Contracts shall consider the Cultural Council’s protest and shall render a decision thereon, in writing, within ten (10) calendar days. If Cultural Council does not agree with the determination of the Assistant Director of Purchasing & Contracts, the Cultural Council shall deliver written notice to that effect to the County

within three (3) business days of receipt of the determination by the Assistant Director of Purchasing & Contracts.

1.1.5 Unless otherwise directed in writing, Cultural Council shall at all times carry on with the Work and maintain its progress schedule in accordance with the requirements of the Contract and the determination of the County, pending resolution of any Contract Document dispute. In no event will a dispute, the filing of a protest, claim or appeal, or the resolution or litigation thereof, relieve Cultural Council from its obligation to timely perform the Work required by the Contract and to maintain the progress schedule in accordance with the Contract.

1.1.6 Any and all Contract Documents shall remain the property of the County. Cultural Council is granted a limited license to use and reproduce applicable portions of the Contract Documents issued by the County appropriate to, and for use in, execution of the Work. Cultural Council shall have the right to keep one record set of the Contract Documents upon completion of the Work; provided, however, that in no event shall Cultural Council and/or its subcontractors use, or permit to be used, any or all of such Contract Documents on other projects without the specific written consent of the County.

ARTICLE 2 NON-EXCLUSIVE AGREEMENT

Cultural Council has no exclusive right to provide the Services required within this Agreement. The County may at its sole discretion contract with others to perform the same duties or any part of the Services.

ARTICLE 3 DEFINITIONS

3.1 Terms used within this Agreement shall have the meaning as set forth in the St. Johns County Purchasing Policy, or as provided herein. Terms defined herein for specific application to this Contract shall govern over definition of terms provided in the St. Johns County Purchasing Policy.

3.1.1 Administrative Overhead Expenses: Those operational costs, not involved in the development or production of specific goods or services, which are incurred daily. Examples include but are not limited to Cultural Council payroll (salaries, wages, commissions, bonuses, benefits and insurance), storage fees, office space rental/lease payments, office equipment, supplies, utilities, telephone and internet costs, membership fees and janitorial services.

3.1.2 Amendment: A document providing the written modifications to a previously issued Contract, adding, revising, replacing, or removing terms and conditions or provisions of the Contract.

3.1.3 Annual Contract Price: The maximum amount available as compensation and reimbursement for expenses to the Cultural Council during each Fiscal Year of the Term of this Agreement.

3.1.4 Annual Promotion Plan: The annual plan prepared and submitted by the Cultural Council, which clearly outlines the strategies and programs designed to increase tourist-related activities within the County during the subsequent year.

3.1.5 Applicable Laws: All local, state, and federal laws, statutes, codes, ordinances, rules and regulations in effect at the time Services are performed under this Agreement.

3.1.6 Board: The St. Johns County Board of County Commissioners.

3.1.7 Claim: Any claim, liability, loss, demand, demand for arbitration, damage, lien, cause of action of any kind, obligation, responsibility, cost, expense, royalty, fee, assessment, penalty, fine, judgment, interest or award, pending or threatened, whether arising by law, contract, tort, voluntary settlement or otherwise.

3.1.8 County: St. Johns County, a political subdivision of the State of Florida.

3.1.9 Fiscal Year: The period beginning October 1st and continuing through September 30th.

3.1.10 Force Majeure Events: Those events that are not reasonably foreseeable and are beyond the control of both the Cultural Council and the County, including acts of war, terrorist attacks, labor strikes, floods, earthquakes, epidemics, pandemics, riots, adverse weather conditions, and other acts of God.

3.1.11 Promotion: Marketing, advertising or other programs designed to increase tourist-related business activities as described in § 125.0104(3)(a), F.S.

3.1.12 Services: The work described in the Contract Documents or a subsequently issued Contract Amendment, which the Cultural Council is obligated to perform, in accordance with this Contract.

3.1.13 Sub-Contractor: Any entity or individual engaged by Cultural Council to provide Services to the County for which Cultural Council is contractually obligated, responsible, and liable to provide and perform under this Agreement.

3.1.14 Tourist: A person who participates in trade or recreation activities outside of the County of his or her permanent residence or who rents or leases transient accommodations as described in § 125.0104(3)(a), F.S.

3.1.15 Tourist Development Council: The advisory council established by the Board in accordance with § 125.0104(4)(e), F.S. hereinafter referred to as “TDC”.

3.1.16 TDT: Local Option Tourism Development Tax.

3.1.17 Tourist Development Plan: The County’s plan for tourist development as provided in § 125.0104(4). F.S.

ARTICLE 4 AGREEMENT TERM

This Agreement shall become effective on October 1, 2023, and shall remain in effect for a period of five (5) calendar years, through and until September 30, 2028 (“Contract Term”), unless earlier terminated. The County and the Cultural Council may only renew this Agreement in whole or in part upon written Amendment, with prior approval by the Board. The terms of any such renewal shall be determined by written Amendment.

ARTICLE 5 TERMINATION

5.1.1 The County or Cultural Council may terminate this Agreement, in whole or in part, for its convenience upon ninety (90) calendar days written notice to the other Party. In such event, Cultural Council will be entitled to compensation for Services previously authorized and satisfactorily performed up through the date of termination identified in the County’s notice. Cultural Council shall not be entitled to compensation or profit for Services not performed.

5.1.2 The County may terminate this Agreement, in whole or in part, for cause. In the event the Cultural Council fails to fulfill any of the responsibilities and obligations provided in this Agreement, the County shall issue a Notice of Default, articulating the issues where the Cultural Council is in default, and providing a timeframe in which the Cultural Council is required to cure, or provide a sufficient plan for curing the default, as determined by the County. In the event the Cultural Council fails to cure, or provide a sufficient plan to cure, as determined by the County, the issues of default articulated in the Notice of Default, the County shall terminate this Agreement for cause, with fourteen (14) days’ written notice to the Cultural Council, and may, at the County’s sole discretion, take over and prosecute the Services to completion. In such case, Cultural Council shall be liable to the County for reasonable additional costs incurred by the County in completing the Services.

5.1.3 Upon receipt of a notice of termination, except as otherwise directed by the County in writing, the Cultural Council shall:

- (1) Stop performance of all Services on the date and to the extent specified in the notice of termination;
- (2) Terminate and settle all orders and subcontracts relating to the performance of the terminated Services;
- (3) Transfer all Work Product, including work in process, and any other materials related to the terminated Services to the County; and
- (4) Continue and complete all parts of the Services that have not been terminated.

5.1.4 In the event Cultural Council changes names, merges with another company, becomes a subsidiary, or makes any other substantial change in structure or in principals, the County reserves the right to terminate this Agreement subject to the terms described above.

5.1.5 The rights and remedies of the County provided in this Section 5.1 are in addition to any other rights and remedies provided by law or under this Agreement.

ARTICLE 6 SCOPE OF SERVICES

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

ARTICLE 7 CONTRACT PRICE AND PAYMENT

7.1 The County agrees to pay, and the Cultural Council agrees to accept for Services performed pursuant to this Agreement, an Annual Contract Price not to exceed a maximum amount of one million three hundred thirty-six thousand seven hundred fifty two dollars (\$1,336,752.00), during the first Fiscal Year of the Agreement Term (October 1, 2023 through September 30, 2024). For each subsequent Fiscal Year, throughout the duration of the Contract Term, the Annual Contract Price shall be adjusted to an amount as determined by the County during its annual budget planning cycle, but shall in no instance exceed the projected net value allocated to the Arts Cultural and Heritage Category described in the County's Tourist Development Plan (as amended from time to time). Such changes to the Annual Contract Price shall be captured by written Amendment and executed by the Parties.

7.1.1 At least thirty percent (30%) of the Annual Contract Price shall be used for product development expenses.

7.2 The Annual Contract Price shall include any and all amounts, charges, fees, costs, and reimbursable expenses associated with performing the Services provided herein on Exhibit A. The Annual Contract Price shall be subject to any amounts designated as reserve funds and/or indirect administrative costs pursuant to all local, state and federal rules, regulations, ordinances and laws.

- a. To the extent that the Cultural Council is not in breach of this Agreement, the County will pay the Cultural Council the Annual Contract Price according to the Payment Schedule provided in Exhibit B, attached hereto.

(1) No additional or advanced payments beyond each monthly installment shall be made by the County unless authorized by the Board.

- b. It is expressly noted that the County will compensate the Cultural Council from only those tax revenue sources that are legally available and appropriated annually to fund Promotion in the County's adopted budget.
- c. It is expressly understood that the Cultural Council is not entitled to any amount of compensation set forth in this Agreement. Rather, the Cultural Council's compensation is based upon the Cultural Council's satisfactory performance of all Services and delivery of all work product and deliverables

stated herein. No payment by the County shall be interpreted to constitute approval or acceptance of any Services, nor shall it be considered a waiver by the Cultural Council of any of the terms of this Agreement.

7.3 On or before the 15th day of each month, throughout the duration of this Agreement, the Cultural Council shall submit an invoice to the County using the invoice form attached hereto as Exhibit 1. Along with each invoice, the Cultural Council shall submit a detailed report in the form and format as attached hereto as Exhibit 2. Each monthly report shall detail the work accomplished in connection with the Scope of Services. The County may, at its sole discretion, request additional information and/or documentation necessary to appropriately verify the submitted invoice for payment.

7.4 Unless otherwise notified, invoices shall be submitted to:

St. Johns County Tourism & Cultural Development
ATTN: TDC Director
500 San Sebastian View
St. Augustine, FL 32084
Email: tmeeks@sjctdc.com

7.5 In the event the County determines a submitted invoice is incorrect, or invalid, the County shall notify the Cultural Council, and the timeframe for payment shall be extended accordingly. Payment by the county shall be made in compliance with the provisions of the Local Government Prompt Payment Act (Section 218.70-218.74, Florida Statutes).

7.6 The Cultural Council shall promptly pay any and all valid invoices from Sub-Contractors, for costs and expenses associated with performance of services pursuant to this Agreement. Failure by the Cultural Council to appropriately pay invoices related to services specified under this Agreement, may result in withheld payment by the County.

7.7 The County may decline to make payment, may withhold funds otherwise payable, and, if necessary, may demand return of some or all of the amounts previously paid to the Cultural Council for any costs or expenses that the County incurs or reasonably expects to incur as a result of the Cultural Council's failure to comply with the requirements of this Agreement, or as a result of the Cultural Council's failure to pay Sub-Contractors.

ARTICLE 8 AVAILABILITY OF COUNTY FUNDS

It is hereby expressly understood by the parties that the County's obligations under this Agreement are subject to the availability of lawfully appropriated County 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 9 PURCHASING PROCEDURES

In performance of this Agreement, the Cultural Council shall abide by and follow the requirements of St. Johns County Purchasing Policy ("Policy"), in the purchase of any goods or services from third-party Sub-Contractors and Suppliers. The Policy is subject to change, at the sole discretion of the County, from time to time, and the County shall provide written notice to the Cultural Council of such changes. Upon receipt of such notification the Cultural Council shall be responsible for adjusting processes for the purchase of goods and services in order to comply with the requirements of the updated Policy.

ARTICLE 10 OWNERSHIP OF WORK PRODUCT AND CONFIDENTIALITY

10.1 Ownership of Work Product

All concepts, products, processes (patentable or otherwise) and copyrightable material (including but not limited to documents, calculations, maps, sketches, notes and notebooks, reports, memoranda of every description, studies, findings, recommendations, proposals, brochures, reference books, promotion materials, data, source codes, models, samples, surveys, drawings, renderings, designs, specifications, tracings, electronic software, and other results of the Services), first developed, produced or reduced to practice by the Cultural Council, or a Sub-Contractor, or otherwise purchased under this Agreement, or at the County's expense ("Work Product"), shall be and remains the County's property upon creation. At the County's request, Cultural Council shall provide the County with copies of supporting computations, analyses, sketches, or similar items pertaining to the Work Product.

10.1.2 The Cultural Council may not reuse Work Product developed under this Agreement without express written permission of the County. The County may, at its option, reproduce and reuse Work Product, in whole or in part, and Cultural Council agrees to such reuse in accordance with this provision. Such use of Work Product by the County shall not entitle the Cultural Council to any additional compensation.

10.1.3 In addition to the Work Product described in Section 10.1 above, any and all furnishings, expendable equipment, operational supplies and other items purchased or otherwise secured with Tourist Development Tax revenues, shall become the property of the County.

10.2 Confidentiality

Subject to Chapter 119, Florida Statutes (Public Records Law), Cultural Council shall keep all information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the County, or at its expense, confidential. Such information shall not be disclosed to any other party, directly or indirectly, without the County's prior written consent, unless required by a lawful order.

ARTICLE 11 ANNUAL EVALUATION

11.1 Annually, the County Tourism and Cultural Development Director along with TDC shall evaluate the Cultural Council's performance of the Scope of Services, particularly as it relates to the following:

- (1) Timely completion of monthly, quarterly and annual deliverables as included in the annual Promotion Plan;
- (2) Quality of presentations and program materials;
- (3) Implementation of 5-year Growth and Development Plan (as described in the Scope of Services);
- (4) Economic impact to all geographic areas within St. Johns County, Florida caused by or associated with Promotion;
- (5) Development and implementation of programs and initiatives as reflected in the 5-year Growth and Development Plan;
- (6) Efforts to promote the diverse arts, cultural and heritage tourist experiences available in all geographic areas within St. Johns County, Florida;
- (7) Efforts to increase tourist spending in all geographic areas within St. Johns County; and
- (8) Effective and timely implementation of the Arts, Cultural and Heritage Grant Program

11.2 Annual Evaluation shall determine the degree and level of the Cultural Council’s performance of the Scope of Services. The Annual Evaluation shall also examine the Cultural Council’s degree of effectiveness in meeting the criteria and performance measures as set forth in the Annual Promotion Plan recommended by the TDC and approved by the Board.

11.3 If, after any Annual 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 Agreement, the County shall issue Notice of Default as provided in Article 5 above.

ARTICLE 12 KEY PERSONNEL

In performance of this Agreement, it is understood that the Executive Director/CEO plays an essential role in the successful operation of the Cultural Council. The Chair of the Board of the Cultural Council shall, therefore inform the Chair of the Board, the Chair of the TDC and County Administrator within five (5) calendar days of any change in who occupies the role of Executive Director/CEO regardless of the reason for that change.

ARTICLE 13 NOTICE

13.1 Any and all notices, requests, consents, approvals, demands, determinations, instructions, and other forms of written communication (“Notices”) under this Agreement shall be validly given when delivered as follows:

- i. Hand delivered to Cultural Council’s Senior Representative or hand delivered during normal business hours and addressed as shown below, or
- ii. Delivered by U.S. Mail or commercial express carrier, (postage prepaid, delivery receipt requested), to the following addresses:

St. Johns County
500 San Sebastian View
St. Augustine, FL 32084
Attn: Jaime Locklear, Asst. Director
Email Address: jlocklear@sjcfl.us

St. Johns Cultural Council
184 San Marco Avenue
St. Augustine, FL
Attn: Christina Parrish Stone
Email Address: christina@historiccoastculture.com

With a copy to:

St. Johns County
Office of the County Attorney
500 San Sebastian View
St. Augustine, FL 32084
Email Address: dmigut@sjcfl.us

13.2 Notices shall be deemed to have been given on the date of delivery to the location listed above without regard to actual receipt by the named addressee. The County may also send copies of Notices by email transmission. Any such email transmission from the County is for informational purposes only. County and Cultural Council may each change the above addresses at any time upon prior written notice to the other party.

ARTICLE 14 INSURANCE

14.1.1 Cultural Council shall, at its sole expense, obtain and maintain the minimum insurance coverages stated herein. All insurance policies shall be satisfactory to the County and be issued by companies authorized and duly licensed to transact business in the State of Florida. Cultural Council shall furnish proof of insurance to the County prior to performance of Services. No Services shall commence until Cultural Council has obtained all insurance coverages required under this section. The County will not make any payment to Cultural Council until Cultural

Council has complied with the requirements of this Article 14. Certificates of insurance shall clearly indicate Cultural Council has obtained insurance of the type, amount, and classification as required by this Agreement. Required insurance coverage shall be maintained in force, including coverage for Additional Insureds, for the duration of the Agreement and until all performance required by Cultural Council has been completed, as determined by the County. Cultural Council shall maintain insurance coverage against Claims relating to any act or omission by Cultural Council, its agents, representatives, employees, or Subconsultants in connection with this Agreement.

14.1.2 No less than ten (10) days written notice shall be provided to the County prior to cancellation, non-renewal or any material change of required insurance policies. Yearly renewal certificates shall be provided to the County within thirty (30) days of expiration of the current policy.

14.1.3 The types and amounts of insurance required under this Agreement do not in any way limit the liability of Cultural Council including under any warranty or indemnity provision of this Agreement or any other obligation whatsoever Cultural Council may have to the County or others. Nothing in this Agreement limits Cultural Council to the minimum required insurance coverages found in this Article 14.

14.2 Additional Insured Endorsements and Certificate Holder

The term "Additional Insured", as used in this Agreement, shall mean St. Johns County, its elected officials, officers, employees, agents and representatives. Certificates of insurance shall specifically name each Additional Insured for all policies of insurance except Workers' Compensation and Professional Liability. A copy of the endorsement showing the required coverages must accompany the certificate of insurance.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida
500 San Sebastian View
St. Augustine, FL 32084
Attn: Purchasing

14.3 Workers Compensation

Cultural Council shall procure and maintain during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as is required by law for all of its employees per Chapter 440, FS. In claims against any person or entity indemnified under this Paragraph by an employee of the Cultural Council, a Subconsultant, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Cultural Council or a Subconsultant under workers' compensation acts, disability benefits acts or other employee benefit acts.

14.4 Commercial General Liability

Cultural Council shall procure and maintain during the life of this Agreement, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, including bodily injury (including wrongful death), property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all Claims that may arise from the Services and/or operations completed under this Agreement, whether such Services or operations are by Cultural Council or anyone directly or indirectly employed by them. Such insurance(s) shall also be primary and non-contributory with regard to insurance carried by the Additional Insureds.

14.5 Automobile Liability

Cultural Council shall procure and maintain during the life of this Agreement, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability and insuring liability arising out of or in any way related directly or indirectly to the ownership, maintenance or use of any owned, non-owned or rented/hired automobiles.

14.6 Professional Liability

14.6.1 Cultural Council shall procure and maintain, during the life of this Agreement, Directors & Officers Insurance with minimum limits of \$1,000,000 with 4-year tail coverage starting upon completion of all Services, as determined by the County. All policies, endorsements, certificates, and/or binders shall be subject to approval by the Entity as to form and content. If applicable, Cultural Council's Directors & Officers policy should not have an exclusion for environmental compliance management or construction management professionals.

14.6.2 In the event that Cultural Council employs professional engineering or land surveyor services for performing field engineering or preparing design calculations, plans, and specifications, Cultural Council shall require the retained engineers and land surveyors to carry professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Contract.

14.7 Other Requirements

14.7.1 The required insurance limits identified in Sections 14.4 and 14.5, above may be satisfied by a combination of a primary policy and/or Umbrella or Excess Liability Insurance policy. Cultural Council shall require each lower-tier subconsultant to comply with all insurance requirements appropriate for its scope of Services, and any deficiency shall not relieve Cultural Council of its responsibility herein. Upon written request, Cultural Council shall provide County with copies of lower-tier subconsultant certificates of insurance.

14.7.2 Providing and maintaining adequate insurance coverage is a material obligation of Cultural Council. County has no obligation or duty to advise Cultural Council of any non-compliance with the insurance requirements contained in this Section. If Cultural Council fails to obtain and maintain all of the insurance coverages required herein, Cultural Council shall indemnify and hold harmless the Additional Insureds from and against any and all Claims that would have been covered by such insurance had Cultural Council complied with its obligations herein.

14.7.3 County reserves the right to adjust the above minimum insurance requirements or require additional insurance coverages to address other insurable hazards.

ARTICLE 15 INDEMNIFICATION

15.1 Cultural Council shall indemnify and hold harmless the County and its officers and employees ("Indemnified Party"), from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Cultural Council or other persons employed or utilized by Cultural Council in the performance of this Agreement.

15.2 To the extent permitted by, and in accordance with Section 725.08 of the Florida Statutes, Cultural Council further agrees that "damages, losses and costs", includes fines, citations, court judgments, insurance claims, restoration costs or other liability, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Cultural Council and persons employed or utilized by Cultural Council in the performance of this Agreement.

15.3 To the extent permitted by, and in accordance with Section 725.08 of the Florida Statutes, for purposes of indemnity, the "persons employed or utilized by Cultural Council" shall be construed to include, but not be limited to, Cultural Council, its staff, employees, subcontractors, all suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of Cultural Council.

15.4 This indemnification will not be valid in the instance where the loss is caused by the gross negligence, or willful, wanton or intentional misconduct of any Indemnified Party.

15.5 If any provision(s), or portion(s) of any provision(s) of this Section, or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or portion(s) thereof, held invalid, illegal or unenforceable.

ARTICLE 16 PUBLIC RECORDS

16.1 To the extend Cultural Council is performing Services pursuant to this Agreement, Cultural Council shall comply and shall require all of its Sub-Contractors to comply with the State of Florida's Public Records Statute (Chapter 119), specifically to:

- (1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services described herein;
- (2) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;
- (3) ensure that public records related to this Agreement that are exempt or confidential and exempt from public disclosure are not disclosed except as authorized by applicable law for the duration of this Agreement and following expiration of this Agreement, or earlier termination thereof, if Cultural Council does not transfer the records to the County; and
- (4) transfer to the County, upon completion of this Agreement, or earlier termination thereof, all public records in possession of the Cultural Council pertaining to this Agreement, at no cost to the County, or keep and maintain all public records for inspection and copying for the duration of the required retention period for such public records.

16.2 If Cultural Council, upon expiration or termination of this Agreement: i) transfers all public records to the County, Cultural Council shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements; and ii) keeps and maintains public records, Cultural Council shall meet all Applicable Law and requirement for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

16.3 Failure by Cultural Council to comply with the requirements of this Article shall be grounds for immediate, unilateral termination of this Agreement by the County.

IF THE CULTURAL COUNCIL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CULTURAL COUNCIL SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (904) 209-0805; PUBLICRECORDS@SJCFL.US, 500 SAN SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.

ARTICLE 17 REVIEW OF CULTURAL COUNCIL RECORDS AND RIGHT TO AUDIT

17.1 As a condition of entering into this Agreement, and to ensure compliance, especially as it relates to 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 Agreement. Such examination, review, inspection or audit shall be at reasonable times and with reasonable notice.

17.2 For the duration of this Agreement, and for five (5) years following final payment under this Agreement, the Cultural Council shall maintain accurate and complete accounting records related to its performance of this Agreement. Such records shall be maintained separately from any other Cultural Council financial records, and shall be maintained in accordance with generally accepted accounting principles and standards.

17.3 The County expressly reserves the right to audit such records at the County's expense. If any such audit of the Cultural Council's accounting records reveals unexpended funds, inappropriate accounting, non-performance, misrepresentation or fraud by the Cultural Council, all corrective actions that must be made as a result of the audit shall be made within sixty (60) calendar days from the presentation of the County's findings to the Cultural Council. Additionally, if an audit discovers inappropriate accounting, non-performance, misrepresentation or fraud by the Cultural Council, then the County may recoup from the Cultural Council the expense of any additional audit work that was made necessary.

17.4 The Cultural Council shall be under no duty to provide access to any records or documentation that is not related to this Agreement, or that is otherwise protected by applicable local, state or federal regulations.

ARTICLE 18 ENTIRE AGREEMENT

This Agreement, together with the Contract Documents for the Services, constitutes the entire Agreement between the County and Cultural Council relating to the subject matter hereof and supersedes all prior or contemporaneous Contracts, negotiations, discussions and understandings, oral or written.

ARTICLE 19 ASSIGNMENT

Neither the County nor the Cultural Council shall assign, transfer, or encumber its interest in this Agreement without the written consent of the other Party. Any assignment, transfer, encumbrance or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit the non-assigning Party to immediately terminate this Agreement, in addition to any other remedies available to the non-assigning Party at law or in equity. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to the County to reasonably compensate it for the performance of any such due diligence.

ARTICLE 20 MODIFICATIONS, AMENDMENTS, WAIVERS AND EXTENSIONS

This Agreement may not be modified, amended, changed or supplemented, nor may any obligations hereunder be waived or extensions of time for performance granted, except by written instrument signed by Authorized Representatives of both parties. No waiver of any default or breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding default or breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

ARTICLE 21 SURVIVAL

The provisions of the Contract Documents which by their nature survive termination of this Agreement, including without limitations all warranties, indemnities, insurance, taxes, enforcement costs, payment obligations, and the County's right to audit the Cultural Council's books and records, shall in all cases survive the expiration or earlier termination of this Agreement.

ARTICLE 22 FORCE MAJEURE

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

Majeure Event.

ARTICLE 23 DISPUTES

23.1 Contract Claims

23.1.1 If any dispute between the County and Cultural Council arises under this Contract and such dispute cannot be resolved by good faith negotiations at the field level between the Project Managers of the Cultural Council and County, such dispute shall be promptly escalated to the Senior Representatives of the Parties, upon request of either party, who shall meet as soon as conveniently possible, but in no case later than fourteen (14) calendar days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) calendar days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving the dispute or disagreement.

23.1.1.1 The Senior Representative for the County shall be the Director, or designee, of the County's Tourism & Cultural Development.

23.1.1.2 The Senior Representative for the Cultural Council shall be the Executive Director of the Cultural Council.

23.1.2 If after meeting, the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the Cultural Council shall submit a Contract Claim as provided herein.

23.1.3 Prior to filing a Contract Claim, Cultural Council shall first exhaust all remedies set forth in the Contract Documents. Claims arising from this Contract shall be filed with the Assistant Director of Purchasing & Contracts within five (5) business days of exhausting all remedies set forth above. Pending final resolution of a dispute or claim, unless otherwise agreed in writing by both parties, the Cultural Council is required to proceed with performance of the Work and maintain effective progress to complete the Work within the Contract Time set forth herein. The Contract Claim shall include, at a minimum, the following:

- a) The name and address of the Cultural Council and any legal counsel; and
- b) The Cultural Council's address to which the County's rendered decisions shall be sent; and
- c) Identification, and a copy, of the final adverse decision or document that is the subject of the Contract Claim and any exhibits, evidence or documents which the Cultural Council deems applicable to the issues raised in the Claim; and
- d) Identification of the administrative remedies provided for in the Contract that were pursued prior to the Claim and the outcome; and
- e) A statement of the grounds for each issue raised in the Contract Claim to be reviewed and the applicable provisions of the Contract, as well as any applicable Laws, or other legal authorities which the Cultural Council deems applicable to the Claim.

23.1.4 During the Assistant Director of Purchasing & Contracts' review of the Contract Claim, the Assistant Director of Purchasing & Contracts may request additional information from the project team of both parties. The parties must provide the requested information within the time period set forth in the request. Failure of either party to timely comply may result in resolution of the Claim without consideration of the requested information.

23.1.5 The Assistant Director of Purchasing & Contracts shall render a decision on the Contract Claim within twenty-one (21) calendar days of the deadline for receipt of all requested information. The written decision of the Assistant Director of Purchasing & Contracts shall be sent to the Cultural Council at the address provided in the Contract Claim, or as otherwise agreed to by the parties.

23.1.6 The decision for any Contract Claim by the Assistant Director of Purchasing & Contracts may be appealed by the Cultural Council to the County Administrator. Cultural Council must submit their appeal to the County

Administrator, including any and all information, documentation, backup data, or other supplemental facts or figures within five (5) business days of receipt of the Assistant Director of Purchasing & Contracts' decision. Failure by the Cultural Council to submit an appeal within the prescribed timeframe shall be a waiver of a right to appeal the rendered decision. The appeal shall include any and all information, documentation, and data relative to the Contract Claim and subsequent appeal. The County Administrator shall render a decision within thirty (30) calendar days of receipt of all information. The County Administrator's decision shall be considered final, unless Cultural Council takes legal action in Circuit Court.

ARTICLE 24 NONDISCRIMINATION

The Cultural Council warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, political affiliation, disability, age, or sex (including sexual orientation and gender identity/expression) pregnancy, marital status or national origin (including limited English proficiency). Cultural Council shall include the foregoing or similar language in its contracts with any Sub-contractors.

ARTICLE 25 COMPLIANCE WITH APPLICABLE 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 26 INDEPENDENT CONTRACTOR

Cultural Council shall act as an independent consultant and not as an employee, agent or servant of the County in performing all Services and activities under this Agreement. Cultural Council shall at all times and in all places maintain complete control over its employees and all of its Subconsultants. Nothing contained in this Agreement shall create any contractual relationship between any such Subconsultant and the County. Cultural Council shall perform all Services in accordance with the requirements of this Agreement and in accordance with its own means and methods subject to compliance with this Agreement. The Cultural Council does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 27 CONFLICT OF INTEREST

27.1 The Cultural Council represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of Services required hereunder. The Cultural Council further represents that no person having any interest shall be employed for said performance.

27.2 The Cultural Council shall promptly notify the County in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the Cultural Council's judgment or quality of Services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Cultural Council may undertake and request an opinion of the County, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by the Cultural Council.

27.3 The County agrees to notify the Cultural Council of its opinion by certified mail within 30 days of receipt of notification by the Cultural Council. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Cultural Council, the County shall so state in the notification and the Cultural Council shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to Services provided to the County by the Cultural Council under the terms of this Agreement.

ARTICLE 28 PUBLICITY AND ADVERTISING

28.1 With the exception of press releases for TDC-funded events, Cultural Council shall not make any announcement or release any information or publish any photographs concerning this Agreement, or the Services

or any part thereof, to any member of the public, press or any official body, unless prior written consent is obtained from the County.

28.2 Use of the County Seal or County Logo is strictly prohibited. In accordance with, County Ordinance 92-2 and County Administrative Policy 101.3, Cultural Council may not manufacture, use, display, or otherwise use any facsimile or reproduction of the County Seal or Logo without express written approval of the Board of County Commissioners of St. Johns County, Florida.

ARTICLE 29 GOVERNING LAW AND VENUE

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

ARTICLE 30 DISCLAIMER OF THIRD-PARTY BENEFICIARIES

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

ARTICLE 31 NO WAIVER; COURSE OF DEALING

The delay or failure by the County to exercise or enforce any of its rights or remedies under this Agreement shall not constitute or be deemed a waiver of the County's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the parties to this Agreement after the Effective Date shall not be deemed a waiver or modification of this Agreement. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 32 SEVERABILITY

If a court deems any provision of the Agreement void, invalid or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

ARTICLE 33 HEADINGS

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

ARTICLE 34 AUTHORITY TO EXECUTE

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

ARTICLE 35 EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be an original document, and all of which together shall constitute a single instrument. The parties may deliver executed counterparts by e-mail transmission, which shall be binding. In the event this Agreement is executed through a County-approved electronic signature or online digital signature service (such as DocuSign), such execution shall be valid, effective and binding upon the party so executing. Execution and delivery of an executed counterpart of this Agreement and/or a signature page of this Agreement by electronic image scan transmission (such as a "pdf" file) or through a County approved electronic signature service will be valid and effective as delivery of a manually executed counterpart of this Agreement.

ARTICLE 36 CONVICTED AND DISCRIMINATORY VENDOR LISTS

Cultural Council warrants that neither it nor any Subconsultant is currently on the convicted vendor list or the discriminatory vendor list maintained pursuant to Sections 287.133 and 287.134 of the Florida Statutes, or on

any similar list maintained by any other state or the federal government. Cultural Council shall immediately notify the County in writing if its ability to perform is compromised in any manner during the term of this Agreement.

ARTICLE 37 SCRUTINIZED COMPANIES LISTS

Section 287.135 of the Florida Statutes prohibits agencies from contracting with companies for goods or services that are on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel, and from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations in Cuba or Syria. The lists are created pursuant to §215.473 and §215.4725, F.S. By execution of this Agreement, Cultural Council certifies that it is not listed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria, and understands that pursuant to §287.135, F.S., the submission of a false certification may subject Cultural Council to civil penalties, attorney's fees, and/or costs. In accordance with §287.135, F.S., the County may terminate this Agreement if a false certification has been made, or the Cultural Council is subsequently placed on any of these lists, or engages in a boycott of Israel or is engaged in business operations in Cuba or Syria.

ARTICLE 38 EMPLOYMENT ELIGIBILITY AND MANDATORY USE OF E-VERIFY

38.1 As a condition precedent to entering into this Agreement, and in accordance with section 448.095, F.S., Cultural Council and its subconsultants shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after January 1, 2021.

- a. Cultural Council shall require each of its subconsultants to provide Cultural Council with an affidavit stating that the sub-consultant does not employ, contract with, or subcontract with an unauthorized alien. Cultural Council shall maintain a copy of such affidavit for the duration of this Agreement.
- b. The County, Cultural Council, or any subconsultant who has a good faith belief that a person or entity with which it is contracting has knowingly violated section 448.09(1), F.S. or these provisions regarding employment eligibility shall terminate the contract with the person or entity.
- c. The County, upon good faith belief that a subconsultant knowingly violated these provisions regarding employment eligibility, but Cultural Council otherwise complied, shall promptly notify Cultural Council and Cultural Council shall immediately terminate the contract with the subconsultant.
- d. The County and Cultural Council hereby acknowledge and mutually agree that, a contract terminated pursuant to these provisions regarding employment eligibility is not a breach of contract and may not be considered as such. Any contract terminated pursuant to these provisions regarding employment eligibility may be challenged in accordance with section 448.095(2)(d), F.S.
- e. Cultural Council acknowledges that, in the event that the County terminates this Agreement for Cultural Council's breach of these provisions regarding employment eligibility, then Cultural Council may not be awarded a public contract for at least one (1) year after such termination. Cultural Council further acknowledges that Cultural Council is liable for any additional costs incurred by the County as a result of the County's termination of this Agreement for breach of these provisions regarding employment eligibility.
- f. Cultural Council shall incorporate in all subcontracts made pursuant to this Agreement the provisions contained herein regarding employment eligibility.

The authorized representatives hereto have executed this Agreement effective as of the Effective Date. Consultant's authorized representative executing this Agreement represents that he or she is duly authorized to execute this Agreement on behalf of Consultant.

St. Johns County (Seal)
(Typed Name)

By: _____
(Signature of Authorized Representative)

(Printed Name)

(Title)

(Date of Execution)

St. Johns County Cultural Council, Inc (Seal)
(Typed Name)

By: _____
(Signature of Authorized Representative)

(Printed Name)

(Title)

(Date of Execution)

ATTEST:
St. Johns County, FL
Clerk of Circuit Court and Comptroller

By: _____
(Deputy Clerk)

(Date of Execution)

Legally Sufficient:

(Office of County Attorney)

(Date of Execution)

EXHIBIT A
SCOPE OF SERVICES

The Cultural Council shall complete the following work.

1. Serve as a Subject Matter Expert on the SJC Tourism Promotions Working Group

A member of the Cultural Council's Senior Management team will participate in the monthly SJC Tourism Promotions Working Group meetings ("Working Group"). The Working Group is comprised of subject matter experts from key local tourism promotion organizations including the Visitors and Convention Bureau and Chamber of Commerce as well as the corresponding supporting government entities including St. Johns County, the City of St. Augustine and the City of St. Augustine Beach.

The Working Group guides the promotional efforts of the County and provides input on the development of promotional materials.

Participation in the Working Group will provide the Cultural Council with an opportunity to engage in the development of the County's tourism promotional materials to ensure the available promotional materials are on par with what is needed to successfully achieve the tasks outlined in this Scope of Services.

2. Create a Comprehensive 5-year Growth and Development Plan for Sustainable Arts, Cultural, and Heritage Tourism in St. Johns County

In coordination with the Tourism Department, the Cultural Council shall develop a 5-year plan for the growth and development of sustainable arts, cultural, and heritage tourism in St. Johns County. The Growth and Development Plan ("Plan") shall provide an overall vision and direction for arts, cultural and heritage tourism development and shall specifically: (1) identify and assess existing and potential local arts, cultural, and heritage tourism opportunities including signature features and events; (2) assess visitor needs and expectations; (3) assess economic impact and market readiness for the different sectors; (4) present priorities for growth and development based on existing and potential resources and economic benefits; (5) outline implementation strategies and order of magnitude funding requirements; (6) provide a time line for implementing the outlined steps for development; and (7) determine measures of success by which progress on the Plan can be assessed.

Although the Cultural Council is encouraged to consider the successes and failures of other iconic historic and coastal cities and regions across the Country to leverage successful strategies, approaches and ideas, the methodology for gathering information for the Plan shall be developed by the Cultural Council.

The Cultural Council shall:

- a. Begin work on the Plan within 45 days of the Effective Date of the Agreement attached to this Scope of Services.
- b. Review relevant studies (including the St. Johns County Destination Marketing Report (2010), the St. Johns County Tourism Development Strategic Plan (2017), the St. Johns County Arts and Cultural Center Market Analysis and Feasibility Study (2018)) and incorporate relevant information and recommendations from these studies into the Plan as appropriate.
- c. Engage local arts, cultural, and heritage organizations, their leaders and supporters, as well as residents and visitors across the County, to explore ways to strengthen and further develop the County's cultural assets focusing on sustainable arts, cultural, and heritage tourism across the County. The Cultural Council shall conduct a minimum of two (2) stakeholder meetings for industry input and conduct interviews with a minimum of ten (10) local arts, cultural, and heritage organizations during this engagement process.
- d. Be responsible for compiling, organizing, synthesizing, and analysing all data and information collected from research, stakeholder meetings, and interviews.

- e. Provide an initial draft of the Plan to the Tourism Department and present the Plan to the Tourist Development Council (“TDC”) at a regularly scheduled meeting.
- f. Revise the draft Plan based on input from the TDC, and present a revised final Plan at a regularly scheduled TDC meeting. If the TDC requests further changes or does not feel that previous direction was incorporated into the Plan, the Cultural Council shall further revise the Plan and present the revisions at the following regularly scheduled TDC meeting. The Plan must receive final approval from the TDC.

3. Implement Strategies Outlined in the Approved 5-year Growth and Development Plan

- a. Following final approval, the Cultural Council shall work toward implementing the strategies outlined in the Plan.
- b. Each June at the regularly scheduled TDC meeting, the Cultural Council shall present a proposal which outlines the Cultural Council’s efforts to implement the Plan during the upcoming fiscal year.
- c. Cultural Council shall provide quarterly updates on implementation progress at regularly scheduled TDC meetings.

4. Provide Knowledge and Expertise on the Development of Arts, Cultural, and Heritage Tourism Programs and Policies

- a. The Cultural Council shall serve as the subject matter expert on arts, cultural, and heritage tourism in St. Johns County, providing knowledge and expertise on strategies, events, programs and actions with a goal of encouraging the development of arts, cultural, and heritage tourism as well as the preservation and protection of cultural resources.
- b. The Cultural Council shall regularly attend TDC meetings.
- c. The Cultural Council shall attend Board of County Commissioner meetings and public meetings at the request of the Tourism Department and provide input, reports and presentations for subject items as requested by the Tourism Department.

5. Implement and Manage the Arts, Culture and Heritage Grant Program

- a. The Cultural Council will also assist in administering the Arts, Culture and Heritage grants (“ACH Grants”) program which will have a maximum budget of \$575,000 and a special events program which will have a maximum budget of \$150,000 during the first Fiscal Year. The County will pay expenses associated with the ACH grants and approved special events directly.
- b. In coordination with the Tourism Department, the Cultural Council shall review grant guidelines annually and provide suggested revisions to the Arts, Culture and Heritage (ACH) Grant Program to further improve the economic impact of the Grant.
- c. In coordination with the Tourism Department, the Cultural Council shall present recommended or requested changes to the ACH Grant Program to the TDC and the Board of County Commissioners at regularly scheduled meetings no later than March of each year.
- d. The Cultural Council shall revise the ACH Grant guidelines as directed by the TDC and Board of County Commissioners and re-present the guidelines if necessary.

- e. The Cultural Council shall schedule, publicize and conduct at least three ACH Grant guideline review workshops each grant cycle. The purpose of the workshops shall be to inform potential applicants of requirements and answer relevant questions.
- f. Cultural Council shall be responsible for managing the contract with the third-party grant application software company and maintaining and updating the electronic grant applications.
- g. The Cultural Council shall be the primary point of contact for grant applicants during the grant cycle. As such, the Cultural Council shall be familiar with the grant guidelines and be able to answer standard questions on requirements for award and reimbursement.
- h. In coordination with the Tourism Department, the Cultural Council shall schedule and provide a facilitator for the Grant Funding Panel review meeting. The facilitator is responsible for keeping the meeting on task as well as upholding presentation time limits and decorum.
- i. The Cultural Council shall receive the grant reimbursement request packets from grant recipients and shall review the request packets for completeness and accuracy. Cultural Council shall address and resolve any inaccuracies or missing information with the grant recipient.
- j. Cultural Council shall submit the reviewed and finalized grant reimbursement packets to the Tourism Department for final review and payment.

6. Tourism Database Management

Maintain and expand the existing database of local arts, cultural and heritage tourism businesses, promotional points of contact and individuals interested in receiving print and of electronic materials. The database shall be used to plan bulk mailing of promotional materials, distribution of electronic newsletters and other outreach as appropriate.

7. Third Party Contracts for Professional Services

In accordance with all applicable County rules, policies and procedures, the Cultural Council may procure and contract professional services for advertising, publicity, website development, inquiry fulfilment, social media and other services related to performance of this Agreement.

8. Reports and Data

Along with the monthly invoice, the Cultural Council shall submit a completed monthly report in the same form and format as the template attached hereto as Exhibit 2.

9. Meetings

TDC Meetings. The Chairman of the Cultural Council Board of Directors and/or designee and/or the Executive Director of the Cultural Council shall attend all TDC meetings, and provide regular reports of effectiveness and progress in completing the Scope of Work, and other tourism related information as requested by the TDC in the form and format attached hereto as Exhibit 3.

- a. Cultural Council Meetings. All Cultural Council meetings at which County funded activities are discussed/considered shall be open to the public at an accessible venue, and shall comply with applicable provisions of the Florida Sunshine Law. Notice of such meetings shall be provided to the Tourism and Cultural Development Director on the same day as provided to the Cultural Council Board of Directors.
- b. Meetings Upon Request. Upon request by County officers and staff, and following reasonable notice, the Cultural Council shall be available to attend meetings involving matter including but not limited to performance of the Agreement, County tourism initiatives, the County budget, and propose state legislation concerning tourism.

10. Account Management

The Cultural Council shall meet with the Tourism Department staff at such times and places, and in such duration, as may be requested for the purpose of carrying out Tourism Department initiatives. Cultural Council account management responsibilities include but are not limited to:

- a. Tracking the effectiveness of strategies implemented or administered by the Cultural Council, including return on investment when possible.
- b. Retaining custody of digital copies and original artwork and documents belonging to the County and supplying copies as requested by the Tourism Department.
- c. Providing needed account service, consultation and regular contact to ensure prompt completion of projects.
- d. Maintaining internal procedures which ensure budget control, prompt billing and quality control, including but not limited to auditing invoices and forwarding these invoices to the Tourism Department for payment.
- e. Handling procurement and management of sub-contractors for the Tourism Department services related to said contract.

EXHIBIT B

PAYMENT SCHEDULE

Invoice Date	Payment Due
October 1, 2023	\$126,752
October 15, 2023	\$110,000
November 12, 2023	\$110,000
December 15, 2023	\$110,000
January 15, 2024	\$110,000
February 15, 2024	\$110,000
March 15, 2024	\$110,000
April 15, 2024	\$110,000
May 15, 2024	\$110,000
June 15, 2024	\$110,000
July 15, 2024	\$110,000
August 15, 2024	\$110,000
September 15, 2024	\$110,000

**EXHIBIT C
INVOICE TEMPLATE**



St. Johns Cultural Council
184 San Marco Ave
St. Augustine, FL 32084
(904) 808-7330

INVOICE

Bill To:
St. Johns County, Tourism Development Department
500 San Sebastian View St.
Augustine, FL 32084

Invoice No.: _____
Invoice Date: _____

Item	Description	Amount
<u>(name of month)</u> Installment	Monthly installment for ACH grant program management and professional arts, culture, heritage tourism promotional services as established by contract	\$ _____
	Total	\$ _____
	Balance Due	\$ _____

EXHIBIT D MONTHLY REPORT TEMPLATE

St. Johns Cultural Council (name of month and year) Monthly Report

Grants Administration

This section should include details on the awarded ACH grants including note of grants that have been closed out, interim reimbursement requested, final reimbursement requested and a description of issues/concerns/challenges.

Purchased Data Reports

If applicable, this section should be included in the monthly report and should include the name of the report and the month of the publication.

Reports are to be provided electronically to the Tourism and Cultural Development Director as part of this monthly report

Example:

- *October 2018 Smith Travel Research Report*
- *Fourth quarter 2018 Visa Vue International Report*

Product Development/Growth and Development Plan Implementation Update

This section should include details on new and ongoing projects that relate to the development of tourism product and/or the implementation projects/programs/strategies outlined in the Growth and Development Plan.

Outreach and Promotions Update

Provide a summary of projects, programs and activities (including e-newsletters, social media initiatives, etc) that are intended to improve awareness of arts, culture and heritage activities and offerings to visitors and potential visitors.

Budget Status

Provide a summary of total dollars spent through the close of the prior month with a breakdown of promotion spend vs. overhead spend. An example submission is included below.

Example:

- *\$640,000 or 56% of the FY2019 budget has been spent through June*
- *\$153,600 on marketing expenses and \$486,400 on administrative overhead expenses*



St. Johns County Board of County Commissioners

Purchasing Division

NOTICE OF SINGLE OR SOLE SOURCE PROCUREMENT

St Johns County, FL
Purchasing Division
500 San Sebastian View
St. Augustine, FL 32084
Office: (904) 209-0150

Sole/Single Source No: SS No: 23-07

Date Posted: November 8, 2022

Written Response due: December 2, 2022 by or before 4:00PM

RESPONSES SUBMITTED TO:

Name: Jordy Fusco

Email Address: mfusco@sjcfl.us

Phone Number: (904) 209-0164

This is NOT a formal solicitation (RFB, RFP, RFQ) and there are no solicitation documents available. A contract or purchase order is proposed for the product(s) or service(s) identified below. St Johns County, FL, intends to negotiate and award a PO or contract to the vendor indicated in accordance with Florida State Statute 287.057(5)(c) and 120.57(3). Any responses received as a result of this Notice shall be considered solely for the purpose of determining whether an equivalent product or service can be provided by alternative source(s), which may warrant a competitive solicitation. Responses will NOT be considered as proposals, bids or quotes.

PRODUCT/SERVICE REQUIRED:

Arts, Culture, Heritage Tourism Development and Management Services

SCOPE OF SERVICES:

Task 1 -- Sever as a Subject Matte: Expert on the SJC Tourism Promotions Working Group

A member of the Contractor's Senior Management team will participate in the monthly SJC Tourism Promotions Working Group meetings ("Working Group"). The Working Group is comprised of subject matter experts from key local tourism promotion organizations including the Visitors and Convention Bureau and Chamber of Commerce as well as the corresponding

supporting government entities including St. Johns County, the City of St. Augustine and the City of St. Augustine Beach.

The Working Group guides the promotional efforts of the County and provides input on the development of promotional materials.

Participation in the Working Group will provide the contractor with an opportunity to engage in the development of the County's tourism promotional materials to ensure the available promotional materials are on par with what is needed to successfully achieve the tasks outlined in this scope.

Task 2 – Create a comprehensive 5-year Growth and Development Plan for sustainable arts, culture, and heritage tourism in St. Johns County

In Coordination with the Tourism Department, the awarded Contractor shall develop a 5-year plan for the growth and development of sustainable arts, culture, heritage tourism in St. Johns County. The Growth and Development plan ("Plan") shall provide an overall vision and direction for arts, culture, heritage tourism development and shall specifically: (1) identify and assess existing and potential local arts, culture, heritage tourism opportunities including signature features and attractions/events; (2) assess visitor needs and expectations; (3) assess economic impact and market readiness for the different sectors; (4) present priorities for growth and development based on existing and potential resources and economic benefits; (5) outline implementation strategies and order of magnitude funding requirements; (6) provide a time line for implementing the outlined steps for development; and (7) determine measures of success by which progress on the plan can be assessed.

Although the contractor is encouraged to consider the successes and failures of other iconic historic and coastal cities and regions across the country to leverage successful strategies, approaches and ideas, the methodology for gathering information for the plan shall be developed by the awarded Contractor.

The awarded Contractor shall:

- Begin working on the Plan, within 45 days of contract initiation.
- Review relevant studies including the St. Johns County Destination Marketing Report (2010), the St. Johns County Tourism Development Strategic Plan (2017), the St. Johns County Arts and Cultural Center Market Analysis and Feasibility Study (2018) and shall incorporate relevant information and recommendations from these studies into the Plan as appropriate.
- Engage local arts, culture, heritage organizations, their leaders and supporters, as well as residents and visitors across the County, to explore ways to strengthen and further develop the County's cultural assets focusing on sustainable arts, culture, and heritage tourism across the County. The Contractor shall conduct a minimum of two (2) stakeholder meetings for industry input and conduct interviews with up to ten (10) local arts, culture, and heritage organizations as directed by the Tourism Department.
- Be responsible for compiling, organizing, synthesizing, and analysing all data and information collected from research, stakeholder meetings, interviews, etc.
- Provide an initial draft of the Plan to the Tourism Department and present the Plan to the Tourist Development Council ("TDC") at a regularly scheduled meeting.
- Revise the draft plan based on input from the TDC and provide a revised final plan and presentation at a regularly scheduled meeting. If the TDC requests further changes or does not feel that previous direction was incorporated into the Plan, the Contractor will be expected to

further revise the Plan and present the revisions at the following regularly scheduled TDC meeting. The Plan must receive final approval from the TDC.

Task 3 – Implement strategies/events/actions outlined in the approved 5-year Growth and Development plan

- Following final approval of the strategic plan, the Contractor shall work toward implementing the strategies/events/programs/actions outlined in the comprehensive 5-year plan.
- Each June, the Contractor shall draft and present a plan to the TDC at the regularly scheduled TDC meeting which outlines the Contractor's efforts in the coming fiscal year to implement the strategies/events/programs/actions outlined in the approved plan.
- Provide quarterly updates on implementation progress at regularly scheduled TDC meetings.

Deliverables:

- Provide annual plan to the Tourism Department and present the plan to the Tourist Development Council each June outlining steps to be taken in the upcoming fiscal year for implementation of the approved 5-year plan

Task 4 – Provide knowledge and expertise on the development of arts, culture, heritage tourism programs and policies

- The Contractor shall serve as the subject matter expert on arts, culture, heritage tourism in St. Johns County, providing knowledge and expertise on strategies, events, programs and actions with a goal of encouraging the development of arts, culture, heritage tourism as well as preserving and protecting the integrity of the resources.
- The Contractor shall regularly attend TDC meetings.
- The Contractor shall attend Board of County Commissioner meetings and public meetings at the request of the Tourism Department and provide input, reports and presentations for subject items as requested by the Tourism Department.

Task 5 – Implement/manage ongoing Arts Culture Heritage Grant program

- In coordination with the Tourism Department, the Contractor shall review grant guidelines annually and provide suggested revisions to the Arts, Culture Heritage (ACH) grant program to further improve the economic impact of the grant.
- In coordination with the Tourism Department, the Contractor shall present recommended or requested changes to the ACH grant program to the TDC and the Board of County Commissioners at regularly scheduled meetings no later than March of each year.
- The Contractor shall revise the ACH grant guidelines as directed by the TDC and Board of County Commissioners and represent the guidelines if necessary.
- The Contractor shall schedule, publicize and conduct at least three ACH grant guideline review workshops each grant cycle. The purpose of the workshops shall be to inform potential applicants of the requirements and answer relevant questions.
- Contractor shall be responsible for managing the contract with the third party grant application software company and maintaining and updating the electronic grant applications.
- The Contractor shall be the primary point of contact for potential grant applicants during the grant cycle. As such the Contractor shall be familiar with the grant guidelines and be able to answer standard questions on requirements for award and reimbursement.
- In Coordination with the Tourism Department, the Contractor shall schedule the Grant Funding Panel review meeting and shall provide a facilitator for the review meeting. The facilitator is responsible for keeping the meeting on task as well upholding presentation time limits and decorum.

- The Contractor shall receive the grant reimbursement request packets from grant recipients and shall review the request packets for completeness and accuracy. Contractor shall address and resolve any inaccuracies or missing information with the grant recipient.
- Contractor shall submit the reviewed and finalized grant reimbursement packets to the Tourism Department for final review and payment issuance.

Task 6 – Account Management

The Contractor shall meet with the Tourism Department staff at such times and places, and in such duration as may be requested, for the purpose of carrying out Tourism Department initiatives.

Contractor account management responsibilities include but are not limited to:

- Tracking the effectiveness strategies/events/programs/actions administered by the successful Contractor, including return on investment when possible.
- Preparing cost schedules and project sheets for expenditures and secure Tourism Department's approval of all expenditures.
- Providing quarterly status reports, or as otherwise requested, to the Tourism Department updating the progress of all projects.
- Retaining custody of digital copies and original artwork and documents belonging to the County and supplying copies as requested and approved by the Tourism Department.
- Assigning and aiding in the prosecution, application, registration, and defence of all applicable intellectual property.
- Providing needed account service, consultation and regular contact to ensure prompt completion of projects.
- Maintaining internal procedures which ensure budget control, prompt billing and quality control, including but not limited to auditing invoices for space, time, preparation and services and forwarding these invoices to the Tourism Department for payment.
- Providing monthly budget spread sheets detailing all billing for each project. The Tourism Department will remit payment directly to vendors upon receipt of invoices which will need to be audited and approved by the Contractor.
- Handling procurement and management of subcontractors for the Tourism Department series related to said contract.

INTENDED SOLE/SINGLE SOURCE CONTRACTOR/VENDOR:

St. Johns County Cultural Council

PROPOSED BUDGET/COST: Approximately \$1,000,000.00 (one million) annually

PROPOSED CONTRACT/PURCHASE TERM:

Contract term will be five (5) years.

JUSTIFICATION FOR SOLE/SINGLE SOURCE:

The Tourism and Cultural Development Department would like to pursue a five (5) year service contract for completing the primary functions provided above. The SJC Cultural Council is the only known provider of this type of service. The primary focus is on a Growth and Development Plan for sustainable arts, culture, and heritage tourism in St. Johns County.

RESPONSE TO SOLE/SINGLE SOURCE:

Firms/Vendors who are capable of providing an equivalent product as stated herein may submit the following, in writing: Company Name, address, point of contact, contact information (phone #, email, etc.) and statement, description and/or capability to provide an equivalent product/service and cost. Responses shall be submitted to the Point of Contact shown above, by or before the due date provided herein. Responses received after the provided due date shall not be considered.