

Monroe County Clerk of Circuit Court & Comptroller

Internal Audit Report



Audit of Tourist Development Council's Website and Digital Services

2024-005

"Preserving Public Trust Through Accountability"

Report 2024-005
October 2024

Monroe County Clerk of Circuit Court & Comptroller
Kevin Madok, CPA

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Internal Audit Department

As part of the Clerk's constitutional responsibilities, the Monroe County Clerk's Internal Audit Department provides independent, accurate, and timely audits of Monroe County government's business activities, operations, financial systems, and internal controls. Internal Audit's audits and consulting services are designed to add value, increase efficiency of operations, advance accountability, and improve stewardship of public resources.

Monroe County's Internal Audit Department accepts confidential tips about fraud, waste, and abuse in Monroe County government or programs through its hotline (305) 292-5760 or at <https://monroe-clerk.com/fraud-waste-abuse>.



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

October 15, 2024

The Honorable Mayor Holly Raschein
Monroe County Board of County Commissioners
102050 Overseas Highway, Suite 234
Key Largo, FL 33037
Email: boccdis5@monroecounty-fl.gov

Ms. Diane Schmidt, Chairperson
Monroe County Tourist Development Council
245 Front Street
Key West, FL 33040
Email: diane.schmidt@opalkeywest.com

Dear Mayor Raschein and Chairperson Schmidt:

The Monroe County Clerk's Internal Audit Department is issuing an audit of the Monroe County Tourist Development Council's (TDC) Website and Digital Services. This audit included a review of the TDC's website and digital services Agency of Record, Cooke Communications Florida, LLC doing business as Two Oceans Digital (Two Oceans) for the three-year period October 1, 2020, through September 30, 2023. The audit focused on the August 19, 2020, agreement between Monroe County and Two Oceans.

Due to the technical nature of the services provided by Two Oceans, Internal Audit contracted with Cherry Bekaert Advisory, LLC to take the lead in performing the audit fieldwork. The audit reviewed the reasonableness of the contracted services provided by Two Oceans along with the revenue and related expenses of this contractual arrangement. The audit identified internal control deficiencies and opportunities for improvement. In total, the auditors noted thirty findings which are detailed in Cherry Bekaert's audit report that is included as [Appendix I](#).

The major findings detailed in the audit report included finding issues with the TDC's 2020 competitive solicitation for website and digital services. Due to the severity of the deficiencies in both the procurement process and the resulting contractual arrangement, we recommended that the TDC critically evaluate their arrangement with Two Oceans to determine whether it would be beneficial to either immediately cancel and re-bid this contract or consider other alternative solutions for website and digital services. We also recommend the TDC take action to require Two Oceans provide documentation to account for all public funds being generated through advertising on the TDC website.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kevin Madok, CPA
Monroe County Clerk of Circuit Court & Comptroller

Cc: Board of County Commissioners
Tourist Development Council
Kara Franker, President and Chief Executive Officer, Tourist Development Council
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Executive Summary

The Monroe County Clerk's Internal Audit Department is issuing an audit of the Monroe County's Tourist Development Council's (TDC) Website and Digital Services Agency of Record, Cooke Communications Florida, LLC, (d/b/a Two Oceans Digital, and hereinafter referred to as Two Oceans). The audit focused on the August 2020 agreement between Monroe County and Two Oceans including an audit of records, assets, and activities relating to the scope of services detailed in this agreement. The audited period was fiscal year (FY) 2021 through FY 2023 (October 1, 2020, through September 30, 2023).

Due to the technical nature of the services provided by Two Oceans, Internal Audit contracted with Cherry Bekaert Advisory, LLC (hereinafter referred to as Cherry Bekaert) to take the lead in performing the audit fieldwork. The audit reviewed the reasonableness of the contracted services provided by Two Oceans along with the consideration and the revenue and related expenses of this contractual arrangement. The audit identified internal control deficiencies and opportunities for improvement.

Cherry Bekaert's audit report is included as [Appendix I](#). In the following pages, Internal Audit summarized the audit's findings as well as provided historical context of Two Oceans' contractual relationship with the TDC.

In total, the auditors noted thirty findings which they categorized under the following five categories:

- Lack of competitive solicitation process for selecting TDC's Website and Digital Services Agency of Record.
- The structure and compensation of Two Ocean's contract likely resulted in TDC significantly overpaying for website and digital services.
- Lack of TDC management oversight and accountability resulted in non-competitive bidding and bias when selecting Two Oceans to be its Agency of Record.
- Deficiencies in Two Oceans' master contract resulted in an unstructured pre-approval process for special projects and the lack detail and guidelines in the contract did not ensure that Two Oceans was leveraging provided resources and avoiding duplicative expenses.
- Regular prepayment of expenditures, incomplete documentation, and lack of proof of payment to subcontractors.

TDC's Agency of Record for Website and Digital Services

In the early 1980's, Monroe County recognized the need to market, promote, and manage itself as a desirable tourist destination by creating the Monroe County Tourist Development Council (TDC). As allowed by s. 125.0104, F.S., Monroe County began levying a tourist development tax (also referred to as a bed tax) to financially support the TDC. The tourist development tax is paid by any person who rents, leases, or lets any living quarters or accommodations in the county for six months or less. In fiscal year (FY) 2023 (October 1, 2022, through September 30, 2023), Monroe County recorded collecting almost \$61.5 million in tourist development tax earmarked to support the TDC's operations.

As provided by s. 125.0104(4), F.S., the TDC is an advisory council appointed by the Monroe County Board of County Commissioners (BOCC). The TDC has nine members who serve staggered four-year terms. The TDC contracts with a not-for-profit corporation, 3406 North Roosevelt Boulevard (d/b/a Visit Florida Keys), to operate the TDC's executive office.

The TDC executive office is referred to as the TDC's executive director in Monroe County Code. As the executive director, Visit Florida Keys serves at the pleasure of and is subject to removal by the BOCC. Monroe County Code Section 23-199((d) states, "[t]he executive director shall carry out the policies and programs established by the council and shall be in charge of the day-to-day operations of those policies and programs." During the audit period, Visit Florida Keys contracted with an executive manager who was responsible for implementing the TDC's policies and programs as well as managing the day-to-day operations of TDC.

With the advent of the Internet in the 1990's, the TDC realized the importance of having a presence on the web to promote the Florida Keys and Key West. To achieve this, in 1995, the TDC entered into an agreement with a Key West-based company, Global Audience Providers (GAP). This initial agreement stated that, "For purposes of promoting tourism to the Florida Keys & Key West . . ." GAP agreed to establish and maintain, ". . . on a free basis (without charge), a World-Wide Web (WWW) site . . ." Because the FloridaKeys.com and KeyWest.com domain names were not available, the TDC's website used the domain Fla-Keys.com.

Although the agreement suggested that GAP was not being paid for creating and maintaining TDC's website, the truth was that GAP was compensated by retaining advertising revenue generated by the TDC website. There was a provision in this original agreement that stated, "GAP shall limit the advertising participation to be sold and administered by GAP on the Keys' WWW site . . . The Keys WWW site will carry approximately a 60 to 40 percent ratio of advertising versus editorial." Other than this provision, there is no documentation that allowed the TDC to determine whether the Florida Keys and Key West-related advertising revenue retained by GAP was reasonable compensation for the services rendered. In addition, what was not stated in the

agreement, was that GAP also owned the domain names FloridaKeys.com, KeyWest.com and other domain names with similar derivations (e.g., gaykeywestfl.com, keyscams.com, etc.). Owning these domain names in addition to managing the TDC's website provided GAP a unique ability to generate tourist-related advertising revenue beyond the revenue generated from TDC's website.

During this initial agreement, in February 1999, GAP was sold to Thomson Company. Thomson Company did business under the alias FloridaKeys.com. Then, in September 2000, Delaware-based Cooke Communications, LLC purchased Thomson Company. Cooke Communications used the business alias FloridaKeys.com/KeyWest.com. In August 2018, Cooke Communications changed their business alias to Two Oceans Digital d/b/a FloridaKeys.com. Finally, in 2021, Cooke Communications shortened their alias to Two Oceans Digital. Cooke Communications continues to manage the FloridaKeys.com and KeyWest.com websites in addition to managing TDC's website. In other words, like GAP, Two Oceans has a unique ability to generate tourist-related advertising revenue beyond the revenue generated from TDC's website because they could leverage their control over TDC's website in a way that could also benefit the similar-sounding website domains that they own.

The initial agreement expanded throughout the years so Two Oceans not only was able to retain advertising revenue generated by FlaKeys.com but also be paid for special projects. September 2000 was the first agreement between Monroe County and Cooke Communications. In this agreement, compensation paid to Cooke Communications (referred to as the FIRM below) was defined as:

COMPENSATION: a. The FIRM shall provide all services and support as listed in the Scope of Services at no charges to COUNTY or TDC in exchange for the exclusive right of advertising revenues generated from the website. The TDC shall have the right to place sponsorship or partnership logo signature on the site. The logo signature(s) in a mutually agreed upon format and location will be at no cost to the TDC.

The FIRM may charge the COUNTY for special projects approved by the TDC or Director outside the scope of services such as new site enhancements which require the FIRM to pay for the technology, equipment and production costs needed for use. These special projects shall be paid for through normal COUNTY purchase order procedures.

In addition to the above, Cooke Communications was paid an annual fee of \$15,000 for providing electronic brochures on the website. In 2005, this annual fee was renamed as an annual bandwidth fee because it now included downloading videos from the TDC's website. Because of the expansion to videos and increase in website traffic, the annual fee increased to \$35,000.

At their February 2020 meeting, the TDC approved conducting a competitive solicitation seeking interested contractors to submit a proposal to provide website and digital services to the TDC.

Only Two Oceans and one other contractor submitted proposals. In June 2020, TDC again approved Two Oceans as their Website and Digital Services Agency of Record.

The current agreement between Monroe County and Two Oceans was entered into on August 19, 2020 ([Appendix II](#)). With the evolution of how entities use and rely on the Internet and social media to promote and advertise their business, the services provided by Two Oceans has expanded accordingly. Two Oceans compensation package now includes:

- “Exclusive right to retain all advertising revenues generated from the website.”
- “. . . may also charge the County for special projects, approved by the TDC or TDC Director outside the Scope of Services, including but not limited to [Two Oceans’] attendance at educational or training programs in support of technology advances and enhancements, new site enhancements, technology, equipment, production, maintenance costs, webcam placement, and other enhancements.”
- Bandwidth service which currently costs \$35,000 annually.
- Reimbursable expenditures related to approved special projects including packaging, shipping, express mail, postage, legal expenses on behalf of the County, and travel expenses for Two Oceans’ personnel.
- Provision for an on-line booking system maintained on TDC’s destination website with a cost not to exceed \$64,000/year (\$40,000/year for Two Oceans’ services plus \$24,000/year paid to the on-line booking system software company).

Given Two Oceans almost 30-year relationship with the TDC, it is important to take a historical look at payments made to this contractor as shown in **Table 1**. The big unknown is the value of the advertising revenue retained by Two Oceans. Monroe County and the TDC are unable put a dollar value on the advertising revenue retained by Two Oceans and Two Oceans was not forthcoming with this information when it was requested as part of the audit.

Table 1
Fiscal Year Payments To Two Oceans

Fiscal Year	Bandwidth	On-Line Booking System	Streaming Web cams	Special Projects and Other Costs	Total Paid To Two Oceans
FY 2023	\$20,000	\$40,000	\$126,433	\$146,627	\$333,060
FY 2022	20,000	40,000	126,433	146,627	333,060
FY 2021	20,000	62,000	93,967	71,672	247,639
FY 2020	34,992	-	98,856	51,728	185,576
FY 2019	34,992	-	95,200	114,708	244,900

Summary of Major Audit Findings

Cherry Bekaert conducted a comprehensive review of TDC's website and digital services and its relationship with Two Oceans. Cherry Bekaert's full report can be found in [Appendix I](#). As detailed in the audit report, Cherry Bekaert reported thirty findings that they categorized into five major areas:

Lack Of Competitive Solicitation Process

As required by Monroe County's Purchasing Policy, TDC conducted the required competitive solicitation for website and digital services by requesting proposals from interested contractors. This is also known as a Request For Proposals (RFP) procurement process. The RFP process requires the TDC to issue an RFP solicitation request that details the TDC's needs, terms, and conditions for maintaining and managing the TDC's website and digital services. A selection committee evaluates and then scores each proposal as the method for selecting the firm that best meets the TDC's needs. Once the committee selects a firm, the committee's recommendation is first presented to the TDC Board for approval. If the TDC approves, then the selection committee is tasked with negotiating a contract with the selected vendor before the recommendation is presented to the BOCC for approval. After being approved, a formal contract is executed that uses the detail from the proposal to define the scope of services and the method of compensation.

Cherry Bekaert found that the RFP for digital services failed to foster a competitive environment and did not comply with the County's purchasing policy. First, the RFP did not create a competitive environment for potential vendors because its design provided a distinct advantage to the incumbent vendor, Two Oceans. The posted RFP is the same as the contract for Two Oceans, giving Two Oceans the ability to leverage their existing submission, while other potential competitors would need to invest significant time and resources to prepare their bids.

Second, the RFP included a stipulation that all services be provided at no cost in exchange for advertising revenues. This provision favored the incumbent. Potential vendors were not provided the detail that provided a price tag on this type of consideration; only the incumbent knew the true value of this compensation package. Further, no other vendor would possess the other domain names that would generate tourist-related advertising revenue beyond the revenue generated from TDC's website which would give Two Oceans a distinct advantage.

Third, the level of detail the RFP required necessitated a significant level of effort on any interested vendor. Given the complexity TDC expected in a vendor's proposal coupled with the unconventional compensation structure likely discouraged vendors from submitting a proposal.

Given that Cherry Bekaert found that TDC's 2020 solicitation for website and digital services did not promote fair and open competition as required by the BOCC's purchasing policy, *we strongly recommend the TDC critically evaluate their arrangement with Two Oceans to determine whether it would be beneficial to either immediately cancel and re-bid this contract or consider other alternative solutions for website and digital services.*

Contract Structure and Compensation

During Cherry Bekaert's review, they concluded that the Two Oceans' unchanged compensation package since 1995 suggests Monroe County and the TDC conducted an insufficient financial analysis to determine if this compensation structure was in the best interest of the County. As a result, it is possible that the TDC has been overpaying for its website and digital services.

Two Oceans believes that the current contract structure is fair despite their contracts with other entities use a more traditional time cost billing arrangement. The exclusive right to retain all advertising revenue generated from the website is granted to Two Oceans in exchange for performing support services is unusual payment in exchange for website and digital services. When Cherry Bekaert asked Two Oceans how much ad revenue was generated for FlaKeys.com, Two Oceans estimated approximately \$600,000 per year. However, it must be stressed that Cherry Bekaert was unable to verify the accuracy of this estimate; Two Oceans refused to provide the auditors supporting documentation. Some expert estimates suggest the advertising revenue could exceed \$1.5 million annually. In addition to the ad revenues, the TDC paid Two Oceans approximately \$100,000 per year for special projects and services.

Cherry Bekaert selected eight tourist development councils located in Florida with similar size, populations, and tourism income to Monroe County. Out of the eight reviewed, six maintained and developed their websites in-house and, of these six, three had paid advertising on their website. Further, based on their analysis, Cherry Bekaert was able to conclude that had the TDC paid for their website and digital services via a time cost billing structure, it is likely the cost would have been approximately \$80,000 to \$120,000 per year. Thus, it appears that the TDC may have significantly over-paid for the services rendered.

Another concerning matter is that any advertising revenue generated from TDC's website should be accounted for as public funds and reflected as such in the County's accounting records. However, the contract between the TDC and Two Oceans was not designed to allow for proper accounting of these public funds. Notwithstanding, the agreement does require each party to have reasonable and timely access to all books, records, and documents directly pertinent to performance under the agreement. Therefore, to allow the TDC to perform a proper financial

analysis of this revenue source, *we recommend the TDC require Two Oceans to fully substantiate all advertising revenue generated by the TDC's website for the last five years.* This would require Two Oceans share with the TDC their income statements and revenue earning reported to the Internal Revenue Service for this period of time.

Lack Of Management Oversight

The TDC's website is a valuable asset to both the TDC and Monroe County. It is a critical marketing tool to promote tourism in the Florida Keys. It also can be designed to allow the TDC to obtain insight into potential visitors. As a result, management oversight is critical to the website's success. Cherry Bekaert found a lack of oversight and accountability by TDC management which resulted in non-competitive bidding and bias in the RFP process and the TDC's contracts.

Vendor Management and Payments

During their review, Cherry Bekaert identified several deficiencies in Two Oceans' master contract highlighting potential financial losses for the TDC and an unstructured pre-approval process for projects. The master contract lacked detail and guidelines to ensure that Two Oceans was leveraging provided resources and avoiding duplicative expenses for special projects. Furthermore, the TDC committed to paying for certain services without comparing charges and services with the contract's obligated services, potentially resulting in overpayment or payment for services included its management of the website.

Cherry Bekaert concluded that the TDC's pre-approval process for special projects lacked structure and transparency, indicating an absence of contract review and compliance prior to payment being made to Two Oceans. Two Oceans failed to provide Cherry Bekaert requested documentation within the allotted time. Further, the audit found that Two Oceans did not comply with their contractual obligation to provide monthly analytics reports to the TDC. This has led to a very opaque business relationship.

Procurement/Accounts Payable

As stated previously, Cherry Bekaert found that TDC's RFP for website and digital services did not meet the County's requirements, revealing discrepancies in project cost allocations and inconsistencies in procurement and payment processes. These discrepancies highlighted the overall deficiency in TDC's vendor management policies and procedures.

TDC's RFP for website and digital services did not meet bidding requirements as only two quotes were received instead of the required three. TDC also failed to issue purchase orders as required by the County's purchasing policy. The auditor's testing found Two Oceans:

- Submitted invoices for payment before providing services;
- Submitted incomplete documentation to support services rendered; and
- Failed to provide proof that Two Oceans paid their subcontractors.

The auditors found that the County's purchasing policy does not clearly state who is responsible for vendor management and how vendor management should be governed. The purchasing policy does not specifically define who should perform such tasks as vendor risk management assessments, background searches, verifications, or contract performance monitoring.

Appendix I

Cherry Bekaert Advisory, LLC Audit Report on Monroe County TDC's Two Oceans Digital Website and Digital Services Audit

**Monroe County Tourist
Development Council (TDC)**
TWO OCEANS DIGITAL WEBSITE AND
DIGITAL SERVICES AUDIT

September 20, 2024



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TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Introduction

This report summarizes the results of the internal audit that Cherry Bekaert Advisory LLC conducted on Two Oceans Digital ("Two Oceans"), the Tourist Development Council's (TDC's) Agency of Record for website and digital services. The goal of this internal audit was to verify the reasonableness of contracted services, consideration, revenue, and related expenses provided by Two Oceans for the fiscal years of 2021-2023.

Our internal audit of Two Oceans identified and prioritized risks in accordance with the current Standards for the Professional Practice of Internal Auditing ("the Standards") issued by the Institute of Internal Auditors (IIA).

Executive Summary

Background

The TDC is an advisory council appointed by the Monroe County Board of County Commissioners (BOCC). The TDC manages Monroe County's tourism marketing efforts to assure long-term economic stability resulting from visitor-related revenues. The TDC pledges to benefit residents and visitors by utilizing those financial contributions to improve the Florida Keys' environmental and community resources. The tourism council also prioritizes enhancing residents' quality of life and minimizing their property taxes by safeguarding the health of the county's primary industry.

Monroe County functions as a "governing body" for the TDC. Both are required to comply with the Monroe County Purchasing Policy. The RFP for website and digital services was issued by Monroe County on behalf of the TDC. The TDC completed the vendor evaluation and selection process based on the responses received. Monroe County signed the contract with Two Oceans to provide services to the TDC. The TDC has been responsible for Two Oceans Digital's overall vendor management including contract governance, vendor performance, and vendor payments.

Methodology, Objectives, and Scope

Our audit methodology involved three phases: planning, fieldwork, and reporting. The in-scope areas were selected by Monroe County's Clerk Office. We began by obtaining an understanding of the Scope of Services provided by Two Oceans. This involved conducting interviews and performing walkthroughs of relevant processes. We then carried out specific and limited testing of expenditures to ensure compliance with the terms and requirements of the Master Contract with TDC. Additionally, we reviewed the reasonableness of expenditures charged to special projects and the fees associated with services provided by Two Oceans, all within compliance of the Master Contract with TDC. Once we had assimilated all relevant information and confirmed the results of our tests, we prepared a draft and final report for the Clerk.

Table 1 – In-Scope Areas Reviewed and Objectives

Areas Reviewed	Objectives
Request for Proposal ("RFP") Process - TDC	Review the most recent RFP process to ensure it complied with Monroe County's procurement policies and procedures.
Scope of Services – Two Oceans	Obtain an understanding of the scope of services provided by Two Oceans.

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Expenditures Compliance – Two Oceans	Perform specific and limited testing of expenditures for compliance with the terms and requirements of the Master Contract with the TDC.
Special Project Expenditures – Two Oceans	Review reasonableness of expenditures charged to special projects and the charges related to the services provided by Two Oceans in compliance with the Master Contract with TDC.
Third-party Contract Governance and Administration - TDC	Evaluate the TDC and Two Oceans Master Contract to identify strengths, areas of improvement, high-risk areas, and control gaps to determine the effectiveness of third-party contract governance and administration.
Revenue Generation – Two Oceans	Perform specific, limited testing and analysis based on industry standards and best practice guidance related to the terms and requirements of the Master Contract for revenue generated from the Two Oceans support services provided to the TDC.

Summary, Conclusions, and Findings

During this audit, we identified internal control deficiencies and opportunities for improvement, which can be implemented to strengthen the TDC's controls related to procurement and third-party governance.

For this audit, risk was ranked by combining two factors, likelihood, and impact, and by operating effectiveness. Likelihood represents the possibility that a given event will occur (e.g., an act of fraud or a failure to comply with laws or regulations) while impact represents the effect of that event occurring (e.g., the magnitude reputational harm or financial condition of the TDC). The Risk Assessment Scale is determined by assigning a level of significance to the identified risk, ranging from low (insignificant) to high (critical). The Operating Effectiveness Result is derived from an assessment of the design of existing controls and how well they are mitigating the associated risk. The outcome ranges from low probability (almost certain to occur) to high probability (rarely occurring).

Rating/Criticality Definitions:

- **High** - significant internal control weakness exists that may result in the inability to meet the TDC's business objectives and/or can cause a significant disruption in business operations.
- **Medium** - internal control weakness may result in the inability to meet the TDC's business objectives and/or can cause disruption in business operations.
- **Low** - internal control weakness exists; however, this may not result in the inability to meet the TDC's business objectives and/or cause disruption in business operations.

Operating Effectiveness Result Definitions:

- **High** - internal control weakness exists; however, this may be effective to avoid significant, but not all, disruption in business operations.
- **Medium** - internal control weakness may cause disruption in business operations.
- **Low** - significant internal control weakness exists that may cause a significant disruption in business operations.

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

During our review, we identified 30 findings. These findings have been assigned a risk rating of High, Medium, or Low, as detailed in Table 2. Out of the 30 findings, 17 are high risk, 12 are medium risk, and 1 is low risk.

Table 2 – Current Findings Risk Rating Map by Area Reviewed

Findings (Total: 30)	Risk Rating			Operating Effectiveness Rating		
	HIGH	MEDIUM	LOW	HIGH	MEDIUM	LOW
RFP Process - TDC	6	3	0	0	4	5
Scope of Services – Two Oceans	0	6	0	0	0	6
Expenditures Compliance – Two Oceans	2	1	0	0	1	2
Special Project Expenditures – Two Oceans	2	1	0	0	1	2
Third-party Contract Governance and Administration - TDC	4	1	0	0	1	4
Revenue Generation – Two Oceans	3	0	1	0	1	3

Five Major Findings

Cherry Bekaert’s comprehensive review identified five major areas highlighting significant issues within Monroe County’s digital services procurement and management processes. These areas encompass all the findings from the audit and are summarized below.

RFP Process

During our review, we identified that the Request for Proposal (RFP) for digital services posted by Monroe County on behalf of the TDC failed to foster a competitive environment and failed to adhere compliance to the procurement policies. The RFP for digital services posted by Monroe County on behalf of the TDC did not create a competitive environment for potential vendors as required by Monroe County Purchasing Policy, as it provided a distinct advantage to the incumbent vendor, Two Oceans. The RFP posted is the same as the contract for Two Oceans, giving them the ability to leverage their existing submission, while other competitors would need to invest significant time and resources to prepare their bids. While the RFP met minimum industry standards, the inclusion of unnecessary requirements such as local vendor preference for digital services that can be executed remotely also limited the pool of prospective vendors. The inclusion of a requirement for no-cost services in exchange for advertising revenues further restricted the pool of potential competitors. Due to the complexity of providing RFP responses and the unconventional compensation package, this may have resulted in a reduction of potential applicants.

Procurement/Accounts Payables

During our review, we identified that the FY21 RFP for digital services did not meet the necessary requirements, revealing discrepancies in project cost allocations and inconsistencies in procurement and payment processes. These discrepancies highlighted the overall deficiency in vendor management policies and procedures. The FY21 RFP for digital services project did not meet bidding requirements as only two quotes were received instead of the required three. There was also

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

confusion regarding the project cost, as the BOCC and TDC had different amounts, and costs were split to move the contract to a lower threshold. Purchase Order requirements for procurements exceeding \$5,000.01 were not consistently implemented before the tenure of the OMB Assistant Director and Director of Purchasing but are now being followed. Payment-related violations were found in the testing of invoices, including prepayment expenditures, incomplete documentation, and lack of proof of payment to subcontractors. The current procurement policies lack clarity on third-party management, indicating a gap in vendor management responsibility and governance over third-party management.

Contract Structure and Compensation

During our review, we identified that Two Oceans Digital's unchanged compensation package since 1995 suggests insufficient financial analysis by Monroe County. This led the TDC to potentially overpay vendor costs. The compensation package for Two Oceans Digital has remained the same since the beginning of their association with TDC in 1995, indicating a lack of financial analysis to determine the TDC's current needs. Two Oceans believes that the current contract structure is fair, but their other contracts use a time cost billing structure rather than a trade-out compensation structure. The exclusive right to retain all advertising revenue generated from the website is granted to Two Oceans in exchange for performing support services, with Two Oceans reporting ad revenue of approximately \$600,000 per year which is unverifiable based on available data. In addition to the ad revenues, the TDC paid Two Oceans approximately \$100,000 per year for special projects and services. When compared to the cost of obtaining these services from another vendor, we determined the expense to be approximately \$80,000 to \$120,000 per year. Thus, it appears that the TDC significantly over-paid for the services rendered.

Vendor Management and Payments

During our review, we identified several deficiencies in the Master Contract between Two Oceans Digital and Monroe County on behalf of the TDC, highlighting potential financial losses and an unstructured pre-approval process for projects. Our review of the Master Contract between Two Oceans Digital and Monroe County on behalf of the TDC revealed several deficiencies and potential financial losses for the TDC. The contract lacked detail and guidelines to ensure that Two Oceans was leveraging provided resources and avoiding duplicative expenses for special projects. Furthermore, the TDC committed to paying for certain services without comparing charges and services with the contract's obligated services, potentially resulting in overpayment or payment for services included in the trade-out. The pre-approval process for special projects lacked structure and transparency, indicating a lack of contract review and compliance prior to payment release to vendors. Two Oceans failed to provide requested documentation within the allotted time and did not comply with the contractual obligation to provide monthly analytics reports.

Governance and Oversight

During our review, we identified that the TDC's absence of key personnel has led to non-competitive bidding and biased RFP evaluations and selections. While other TDCs often handle web development in-house or through third parties, Monroe County's approach of relinquishing all advertising revenue is unique and potentially disadvantageous. Our review of the Master Contract revealed that the ownership of the website and its contents belongs to Monroe County despite Two Oceans being responsible for designing, developing, programming, maintaining, and hosting the website. The lack of oversight and accountability of Management has resulted in non-competitive bidding and bias in the RFP process and TDC contracts. The website should be capitalized following GASB 94, although it is not clear if it was capitalized when created. For a comparison review, we selected eight TDCs located in Florida with similar size, populations, and tourism income to Monroe County. We found that other

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

similar TDCs have utilized a third party to develop their website. Out of the eight TDCs reviewed, six maintained and developed their websites in-house, with three of them having paid for advertising. No other TDC appeared to give up all advertising revenue generated to develop and maintain their site.

Additional information on the findings, recommendations, and management's responses, as well as process improvement recommendations, are embedded within the detailed section of the report for each area reviewed.

[1: Request for Proposal \("RFP"\) Process - TDC](#)

[2: Scope of Services – Two Oceans](#)

[3: Expenditures Compliance – Two Oceans](#)

[4: Special Project Expenditures – Two Oceans](#)

[5: Third Party Contract Governance and Administration - TDC](#)

[6: Revenue Generation – Two Oceans](#)

We appreciate the cooperation and assistance provided by County and TDC staff.

Very truly yours,

Cherry Bekaert Advisory LLC

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Detailed Report

Background

The TDC is an advisory council appointed by the Monroe County Board of County Commissioners (BOCC). The TDC manages Monroe County's tourism marketing efforts to assure long-term economic stability resulting from visitor-related revenues. The TDC contracts with 3406 North Roosevelt Boulevard Corporation d/b/a Visit Florida Keys (VFK), registered as a Florida non-profit corporation but not a tax-exempt organization, to operate the TDC's executive office. The TDC Board is responsible for the oversight of the VFK and management of the budgeting of the funds and mission of the organization. The VFK staff approve vendor invoices submitted, and the Monroe County Clerks Office issues the payment to the vendor.

Two Oceans Digital is contracted with Monroe County, Florida ("County") to provide professional website and digital services to the TDC. The County acts as the contract holder, while the TDC is the organization receiving the services since 1995. The original vendor was Global Audience Providers, which was then purchased by Cooke Communications dba Two Oceans Digital in 2000.

Objectives and Scope

Effective and efficient internal controls and risk management strategies give the Board of County Commissioners greater assurance that the TDC can achieve its mission, goals, and objectives. The objective of this internal audit report is to summarize the audit, or "test of controls," to verify the reasonableness of contracted services, revenue, and related expenses for the services provided by Two Oceans.

This engagement included the testing of six objectives.

Table 3 – Objectives

Areas Reviewed	Objectives
1. RFP Process - TDC	Review the most recent RFP process to ensure it complied with Monroe County's procurement policies and procedures.
2. Scope of Services – Two Oceans	Obtain an understanding of the scope of services provided by Two Oceans.
3. Expenditures Compliance – Two Oceans	Perform specific and limited testing of expenditures for compliance with the terms and requirements of the Master Contract with the TDC.
4. Special Project Expenditures – Two Oceans	Review reasonableness of expenditures charged to special projects and the charges related to the services provided by Two Oceans in compliance with the Master Contract with TDC.
5. Third-party Contract Governance and Administration - TDC	Evaluate the TDC and Two Oceans Master Contract to identify strengths, areas of improvement, high-risk areas, and control gaps to determine the effectiveness of third-party contract governance and administration.
6. Revenue Generation – Two Oceans	Perform specific, limited testing and analysis based on industry standards and best practice guidance related to the terms and requirements of the Master Contract for revenue generated from the Two Oceans support services provided to the TDC.

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Approach

Cherry Bekaert used an industry standard approach in performing the internal audit that considered the key strategic, operational, compliance, financial and other risks associated with tourist development. The internal audit was conducted in three phases:

Phase 1: Planning

- Conducted project initiation tasks, including confirming the scope, objectives, schedule and held a kick-off meeting with key stakeholders.

Phase 2: Fieldwork

- Reviewed prior audits, policies and procedures, and other relevant documentation and conducted interviews with Management to understand the current state and identify areas of risk.
- Performed internal control testing and analysis for each audit objective.
- Developed preliminary findings, recommendations, and improvement opportunities.
- Conducted inquiries and other follow up activities with Management to validate preliminary findings, recommendations, and improvement opportunities.

Phase 3: Reporting

- Prepared draft findings and recommendations and validated with Management.
- Prepared and issued a final report.

The internal audit tested and evaluated inherent and residual risks based on the operational effectiveness of internal controls. Our methodology includes the identification of internal controls, as well as an evaluation of the design of internal controls. Inherent risks may be a result of the nature of a functional area or due to the absence of implemented internal controls. Residual risk results from the remaining exposure after management has developed a risk response and implemented internal controls.

If an organization has more controls in place that direct, prevent, detect, and correct errors, then the overall control environment would be more mature. The goal is to effectively manage the risks through the implementation of a system of internal controls that helps to ensure that errors, irregularities, and fraud are less likely to occur or go undetected. There are four types of internal controls that should be considered when conducting an internal audit. ⁶⁶⁶

- Directive – Controls that instruct employee behavior designed to ensure a particular outcome is achieved. Examples include policies or procedures.
- Preventive – The steps taken before an emergency, loss, or problem occurs. They are designed to limit the possibility of an undesirable outcome being realized. Examples include segregation of duties, logical access controls and training.
- Detective – The control techniques for early discovery of problems and to quickly correct errors or exceptions after occurring. They are designed to identify occasions of undesirable outcomes having been realized. Examples include reconciliations and incident alerting.

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- Corrective – Controls designed to correct a realized, undesirable outcome and to provide recourse to achieve recovery against the loss or damage. Examples include backups or corrective action plans.

Table 4 – Likelihood and Impact Ratings

When considering the risk ratings for likelihood and impact, we considered the factors outlined in the table below.

Likelihood		Impact	
High	Immediate and high degree of vulnerability such that it is critical that the risk be managed and controlled in order for this area to achieve its objectives. If not properly controlled, that area could have a serious, long-term, or detrimental effect on operations, internal controls and the achievement of organizational goals and objectives.	High	If an event occurs, the financial ramifications would be severe and/or operations would suffer long standing consequences.
Medium	Risk present should be addressed and controlled but the probability is not as severe as defined above. If not properly controlled, the area could have some impact on operations and internal controls, but achievement of organizational goals and objectives will still be met.	Medium	Indicates that the resulting consequences of an event would be negative and must be managed but would not have a substantial effect on finance or on-going operations.
Low	The threat of a serious event occurring is either non-existent or remote. The area should be managed but the level of risk response is limited.	Low	Indicates that the event occurring would have little or no impact financially or operationally.

Table 5 – Operating Effectiveness Result Ratings

When considering the operating effectiveness of a control, we determined whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively.

Operating Effectiveness Result Rating	
High	The control is operating as designed and is being executed effectively by the person responsible for performing it. This rating provides a high level of assurance that the control will prevent or detect material misstatements in the financial statements.
Medium	The control is operating as designed, but there are some weaknesses in the execution of the control that may reduce its effectiveness. This rating provides a moderate level of assurance that the control will prevent or detect material misstatements in the financial statements.
Low	The control is not operating as designed or is not being executed effectively, which means that there is a high risk that material misstatements could occur in the financial statements. This rating provides a low level of assurance that the control will prevent or detect material misstatements in the financial statements.

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Findings, Recommendations, and Management's Responses

Table 6 – Findings and Recommendations

1: Request for Proposal (“RFP”) Process - TDC

Procurement: RFP Specifications	
Criteria	<ul style="list-style-type: none"> Competitive Solicitation specifications should be written broadly enough to encourage a broad range of responses and should not be written to steer prospective responders or “rig” the solicitation for any one particular vendor or the incumbent vendor.
Conditions (4) 1 & 2 – High Risk 3 & 4 – Medium Risk	<ol style="list-style-type: none"> The RFP posted is the same as the contract for Two Oceans. This indicates Monroe County on behalf of the TDC did not provide general mandatory and desired technical requirements. The RFP included a stipulation that all services be provided at no cost in exchange for advertising revenues, thereby favoring the incumbent vendor over other potential competitors. This requirement also restricted the pool of prospective vendors to those who were willing to accept the atypical compensation package. Based on our analysis of the most recent FY 2021 RFP, the minimally required sections were included when compared to industry best practices. However, the level of detail required for each RFP section necessitates a significant level of effort. Given the complexity of providing RFP responses, coupled with the unconventional trade agreement pertaining to ad revenue, this may result in a reduction of potential applicants. Two Oceans stated the contract terms have remained the same since the beginning of the relationship. The initial contract was written in 1995, but there is no indication of payment to the digital agency. Only that the agency will establish and maintain the website on a free basis for the TDC. However, in the second contract executed in 2000, the compensation package is detailed as it is currently. This indicates the compensation package has been in effect since the inception of Two Oceans' association with TDC in 1995 and that no significant updates or changes have been made since the inception of the contract 30 years ago. This indicates that there has been no financial analysis to determine if this compensation structure best suits TDC's current needs and/or business structure.
Cause	<ul style="list-style-type: none"> The RFP was not revised to encourage a broader range of responses and instead appeared tailored to Two Oceans specifically.
Impact	<ul style="list-style-type: none"> RFP is too prescriptive and limits competition in obtaining additional quotes for goods or services at the best possible prices or with the best possible value proposition.
Recommendations (4)	<ol style="list-style-type: none"> We recommend that the TDC conducts market research with other TDC's to understand the scope for similar services before each future RFP. This will ensure that the TDC receives the best value for its money and that vendors are selected based on their ability to meet the TDC's specific needs and objectives. After a thorough evaluation of the current RFP, we recommend Monroe County engage the services of an experienced RFP writer to revamp all the RFP mandatory requirements, functionality requirements, technical requirements, and specifications, for any upcoming bidding or advertising to create a fair bidding environment.

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	<p>Before each future RFP, conduct market research with other TDC's buyers to understand the scope for similar services as a result, this would help:</p> <ol style="list-style-type: none"> a. Identify unqualified vendors. b. Ensure the project team receives similar responses from each responder. c. Prevent specifications that appear to require expertise that only one vendor can possess. d. Prevent the opportunity for fraud, waste and abuse which can occur when RFPs are steered to a predetermined responder in advance of a bidding process. e. Correct the proposed cost structure and estimates to ensure alignment with current market practices. <p>3) We recommend that the TDC has the RFP draft reviewed by an expert prior to the next RFP being posted publicly to evaluate the requirements which may encourage a more competitive bidding environment and cause more bidders to respond to the RFP.</p> <p>4) We recommend that periodic evaluations of the compensation structure be conducted to ensure that it remains aligned with the TDC's current needs and business structure.</p>
Procurement: Competition Requirements	
Criteria	<ul style="list-style-type: none"> • All procurement transactions must be conducted in a manner providing for full and open competition, which prohibits placing unreasonable requirements, unnecessary experience, or excessive bonding on firms in order for them to qualify to do business.
<p>Conditions (2) 5 – High Risk 6 – Medium Risk</p>	<p>5. Two Oceans enjoys a distinct and significant competitive advantage in the RFP process, owing to the fact that they are not required to construct the website from scratch, unlike other competitors. Consequently, Two Oceans can leverage their existing submission and make minor modifications to it, while their competitors would need to invest several weeks of effort to prepare their bids.</p> <p>6. The Monroe County Purchasing Policy grants preferential treatment to local vendors in competitive bidding processes. However, for digital services that can be executed remotely, such preference is deemed unnecessary. The inclusion of such a requirement in the RFP favors local vendors over non-local ones, which would limit the pool of prospective vendors.</p>
Causes (2)	<ul style="list-style-type: none"> o Monroe County has not updated the RFP since 2000 and has not adapted the RFP to the current technological environment. o The RFP was not revised to encourage a broader range of response and instead appeared tailored to Two Oceans specifically.
Impact	<ul style="list-style-type: none"> ▪ Based on industry best practices, unreasonable requirements may be included in the RFP, which may eliminate potential bidders.

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<p>Recommendations (2)</p>	<p>5) As per the Request for Proposal (RFP) specifications of TDC, it was mandatory to accept the compensation package which entails the provision of all services at no cost in exchange for advertising revenues. This compensation package has been in effect since the inception of Two Oceans' association with TDC in 1995. However, given the substantial changes in the digital industry since the original contract, we recommend updating the existing contract to align with the current times.</p> <p>6) After a thorough evaluation of the current RFP, we recommend Monroe County engage the services of an experienced RFP writer to overhaul the RFP for any upcoming bidding or advertising to create a fair bidding environment and increase the number of qualified diverse potential bidders to deliver specialized services to the TDC. We recommend removing the local preference piece from the RFP for digital services to broaden the range of potential bidders.</p>
<p>Procurement: RFP Policy Compliance</p>	
<p>Criteria</p>	<ul style="list-style-type: none"> • All contracts, leases, and/or agreements more than \$50,000.00 shall be reviewed by the County Attorney's Office prior to being placed on the agenda for BOCC approval. • All procurements \$10,000.00 or more require a PO along with a minimum of three (3) quotes.
<p>Condition High Risk</p>	<p>7. For FY21 RFP, the purchasing level was above \$10,000.00 and therefore required at least 3 quotes. However, only two quotes were received. The purchase requirements are in place to ensure a competitive bidding process and to prevent favoritism or bias in the selection of vendors. The lack of a third quote can result in missed opportunities for obtaining the best value for the TDC's money and can impact the TDC's ability to negotiate favorable contract terms and conditions.</p>
<p>Cause</p>	<ul style="list-style-type: none"> o The BOCC have the authority to assign the administrator to undertake a different level of competitive selection, however, no decision/vote/motion was noted in the BOCC's meeting minutes.
<p>Impact</p>	<ul style="list-style-type: none"> • The approval process for the selected RFP contract winner was not completed in full compliance with the policy.
<p>Recommendation</p>	<p>7) We recommended that the procurement team take immediate action to ensure compliance with the purchasing policy for the next website and digital services RFP and reach out to potential vendors to obtain the necessary third quote and document all efforts made to secure the quote. It is important that all purchasing procedures are followed to mitigate any potential risks associated with non-compliance. The TDC should:</p> <ul style="list-style-type: none"> a. Monitor and ensure the internal controls designed are operating effectively and efficiently based on business needs. b. Ensure a repeatable, consistent process is followed irrespective to the individual(s) responsible for executing it. c. Ensure applicable laws and regulations are complied with preventing the potential for non-compliance, resulting in legal fines, fees, etc. d. Establish a periodic review of the procurement process to identify any gaps and potential improvements.
<p>Procurement: Purchasing Thresholds</p>	
<p>Criteria (3)</p>	<ul style="list-style-type: none"> • Per the stipulations of the Purchasing Policy in effect in 2021, all procurements exceeding \$1,000.01 necessitate a Purchase Order (PO).

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	<ul style="list-style-type: none"> ○ <i>Note: The Purchasing Policy was updated in 2023 and this threshold was increased to \$5,000.01.</i> • Per the stipulations of the Purchasing Policy in effect in 2021, the Requesting Department must submit a PO along with three (3) or more price quotes for all procurements over \$10,000.00. • All contracts, leases, and/or agreements more than \$50,000.00 shall be reviewed by the County Attorney's Office prior to being placed on the agenda for BOCC approval.
<p>Conditions (2) High Risk</p>	<p>8. There appears to be confusion on how much the project was going to cost the County. The BOCC and the TDC had two different amounts. The BOCC showed \$20,000 as the only cost per annum which would categorize this procurement into the lower threshold. However, the TDC showed \$105,000 as total cost to the county per annum which would categorize this procurement into the higher threshold. By excluding the additional costs from the total project cost, the BOCC was not provided with a complete assessment of the contract and related procurement requirements. This approach may have been used to manipulate the contract to fall into the lower procurement threshold. As a result, the county did not complete the appropriate purchasing requirements.</p> <p>9. Our testing revealed a lack of POs, thereby indicating non-compliance with the previously mentioned requirements. During our walkthrough with the OMB Assistant Director of Purchasing, it was brought to our attention that POs were not consistently implemented before the tenure of the OMB Assistant Director and Director of Purchasing, which commenced in January 2024. After undergoing a revamp following their induction, the TDC now ensures that all Two Oceans' special projects are accompanied by a PO for proper documentation and control.</p>
<p>Causes (2)</p>	<ul style="list-style-type: none"> ○ It appears the costs were split up to move the contract to a lower threshold. ○ POs were not consistently implemented before the tenure of the OMB Assistant Director and Director of Purchasing.
<p>Impacts (2)</p>	<ul style="list-style-type: none"> ▪ The contracts may be manipulated to fit a smaller threshold with less requirements. ▪ POs were not consistently used which does not fully adhere to the policy.
<p>Recommendations (2)</p>	<p>8) We recommend the TDC continues to use POs for all special projects. We recommend the implementation of a formalized KPI (Key Performance Indicators) vendor management process within the TDC. KPIs (Key Performance Indicators) measure whether goods and services are providing benefits, adding value, and functioning as intended for the overall benefit of the organization.</p> <p>9) We recommend that the TDC continue the use of POs for all procurement over the \$5,000.01 as stipulated in the Monroe County Purchasing Policy. POs are an essential tool for maintaining financial control and accountability within an organization. POs provide the TDC a clear audit trail and accountability for all procurement activities. POs ensure that goods and services are procured in compliance with the organization's purchasing policy and that proper documentation and control are in place. They also help to prevent unauthorized purchases, reduce the risk of fraud, and improve budget tracking and forecasting. Additionally, POs provide a basis for reconciling invoices and ensuring that payments are made accurately and timely.</p>
<p>Management's Response</p>	

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Action Plan	
Owner/Responsible Personnel	
Target Completion Date	

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2: Scope of Services – Two Oceans	
Procurement: Contract Negotiations	
Criteria	<ul style="list-style-type: none"> The County should clearly define the negotiation process and ensure the negotiation of the contract structure was properly drafted to create equality.
Conditions (5) Medium Risk	<p>10. The contract states the TDC has a budget allocated for special projects, but per our review, the preapproval process lacks structure. Specifically, the process lacks the minimum requirements to ensure there is a transparent, documented review and approval process before special projects are initiated. The absence of these minimum requirements can lead to inconsistencies in the approval process and potential instances of fraud or abuse. It can also result in confusion and disagreements between parties regarding expectations and responsibilities, ultimately leading to delays, wasted resources, and financial mismanagement.</p> <p>11. Based on our review of the RFP and the interview with Monroe County’s Assistant Director, Purchasing, we have determined that the requirements are too prescriptive and appear to be geared toward one vendor. This can lead to a lack of competition and fairness in the procurement process. In this case, the incumbent vendor had an unfair advantage since the RFP was the same as the contract for Two Oceans. This suggests that the TDC and Monroe County did not create a competitive environment for the RFP, which is a violation of the Monroe County Purchasing Policy. A lack of competition can result in higher costs, a lower quality of service or product, and a missed opportunity to obtain the best value for the taxpayer’s money. A fair and competitive procurement process ensures transparency, promotes accountability, and helps to ensure that the County receives the best possible goods and services at a fair price.</p> <p>12. Neither the TDC or Monroe County are receiving any revenue generated from the website’s ads, which could result in missed revenue opportunities. The contract terms may not be structured favorably to ensure that the TDC captures all the available revenue, which can lead to financial losses for the organization. The lack of a favorable revenue structure can also impact the TDC’s ability to invest in other areas of the organization, such as marketing initiatives, visitor services, and infrastructure improvements. A fair and structured revenue-sharing agreement can ensure that the TDC captures all the available revenue and invests in areas that can benefit the organization and the community.</p> <p>13. There may be a lack of transparency and accountability in the contract negotiation and evaluation process. It is important to ensure that both parties involved in a contract negotiation agree on the terms and that the agreement is mutually beneficial. If only one party believes that the contract structure is fair, it can lead to disagreements, misunderstandings, and potential legal or financial risks.</p> <p>14. Two Oceans stated the contract terms have remained the same since the beginning of the relationship. The compensation package has remained the same since the inception of the contract in 1995, with no significant updates or changes, which indicates that no analysis has been conducted to determine if the compensation structure is still suitable to meet the TDC’s current needs and business structure. A lack of analysis and evaluation can lead to missed opportunities for cost savings or revenue generation, as well as a potential misalignment of incentives between the service provider and the TDC.</p>

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Cause	<ul style="list-style-type: none"> o The terms of the contract were not fully analyzed to determine the best interest/needs of the TDC. Contract negotiation and vendor management are not clearly defined in the County's Purchasing Policy.
Impact	<ul style="list-style-type: none"> ▪ Review of vendor contract terms and guidelines for enforceability and monitoring of compliance with terms was not performed to ensure the County's best interest.
Recommendations (5)	<p>10) We recommend implementing a pre-approval process for special project charges with a two-step/level approval process. A transparent and documented approval process which ensures accountability, promotes compliance, and helps avoid potential legal or financial risks.</p> <p>11) To ensure contracts are drafted with precision, accuracy, and compliance with legal requirements, we recommend that the TDC should engage a contract writer with substantial experience in the field and conduct a thorough review of all contracts by an independent, third-party attorney. Additionally, to improve the RFP process and adhere to more contemporary standards, we recommend engaging an experienced RFP writer to overhaul the RFP for any upcoming bidding or advertising.</p> <p>12) We recommend that the Monroe County conduct a financial analysis on behalf of the TDC to determine the potential revenue that the TDC and/or Monroe County may receive from the website's ads can help to inform the negotiation process and ensure that the organization is receiving the full benefit of its partnership with the digital agency. Monroe County may want to renegotiate the contract terms on behalf of the TDC to ensure that the organization captures all available revenue generated from the website's ads. This can be achieved by revising the revenue-sharing agreement or exploring other compensation structures that align with the TDC's goals and objectives. It is important to ensure that the compensation structure is fair and mutually beneficial to both parties involved in the agreement.</p> <p>13) We recommend that all parties involved in a contract negotiation have a clear understanding of the terms and that the agreement is structured in a way that benefits both parties. This includes the scope of work, responsibilities, timelines, milestones, and compensation structure. A clear and transparent negotiation process ensures that all parties are aware of their obligations, rights, and expectations and may prevent misunderstandings, disputes, and potential legal or financial risks.</p> <p>14) We recommend that the TDC to regularly evaluate and update compensation structures to ensure they align with the organization's goals and objectives, and to prevent any potential financial or legal risks.</p>
Procurement: Contract Terms	
Criteria	<ul style="list-style-type: none"> • The Department Director of an approved contract/agreement shall designate a Contract Manager who shall be responsible for enforcing performance of said contract/agreement terms and conditions.
Condition Medium Risk	15. Most of Two Oceans' contracts are not set up with a trade-out compensation structure but a time-cost billing structure. This indicates that this is not a standard practice for the vendor or the TDC.
Cause	<ul style="list-style-type: none"> o The terms of the contract were not fully analyzed to determine the best interest/needs of the TDC.

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Impact	<ul style="list-style-type: none"> The terms may not be in the County's best interest.
Recommendation	15) We recommend that the TDC solicits a detailed price quote from Two Oceans' services utilizing a time billing structure. This billing structure enables the TDC to pay for the actual time and resources utilized, ensuring transparency, and avoiding any unforeseen expenses.
Management's Response Action Plan	
Owner/Responsible Personnel	
Target Completion Date	

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3: Expenditures Compliance – Two Oceans	
<u>Accounts Payable: Vendor Payments</u>	
Criteria	<ul style="list-style-type: none"> Original documents must be submitted, and the invoice should match supplier information on file. All information in the accounting system should align with Purchase Order and/or Supplier Invoice Request details. Proper supporting documentation is required for grant expenditures. In addition to the supplier invoice, submit the packing slip documenting the receipt of the good. If the packing slip is not available, provide a picture of the goods received.
Conditions (2) High Risk	<p>16. Seventeen of the forty-six invoices tested were submitted for services before the service period was complete. Of those invoices, nine were paid 3-12 days before the end of the service period which violated the requirement that expenditures for prepayment were not allowable.</p> <p>17. Out of the forty-six invoices tested, one invoice did not contain complete documentation. The invoice was for \$30,000. CrowdRiff's invoice shows the amount as \$21,000, but Two Ocean's invoice is for \$30,000 with no explanation as to what accounts for the \$9,000 difference in violation of the requirement that proper and clear supporting documentation should be included with the payment request.</p>
Cause	<ul style="list-style-type: none"> Invoices are not being reviewed properly to ensure the correct service period, the work was complete, and all documentation was provided before issuing payment.
Impact	<ul style="list-style-type: none"> Invoices are paid without adequate support to document the total invoice amount, or the occurrence of services rendered, prior to payment.
Recommendation	<p>16) We recommend that the TDC establish clear procedures and guidelines for invoice submissions and payment requests to ensure compliance with regulations. This includes ensuring that invoices are submitted only after the service period is complete and that prepayment expenditures are not allowed. A clear process for verifying service completion and verifying the accuracy of invoices should be established and followed to prevent any future violations.</p> <p>17) We recommend that the TDC enforce a strict policy of ensuring complete documentation is included with all payment requests. This includes requiring proper and clear supporting documentation for all invoices, ensuring that the payment amount matches the contract, and providing an explanation for any discrepancies. A clear process for verifying the accuracy and completeness of documentation should be established and followed to prevent any future violations.</p>
<u>Accounts Payable: Subcontractor Reimbursements</u>	
Criteria	<ul style="list-style-type: none"> The vendor must provide documentation that the subcontractor has already been paid for the services that the vendor is requesting reimbursement for by providing a copy of the invoice paid along with evidence of the payment.
Condition Medium Risk	<p>18. Two out of the 46 invoices included reimbursement of expenses from subcontractors, but did not include proof of payment to the subcontractor in violation of the requirement that the vendor must provide documentation that the subcontractor has already been paid for the services that the vendor is requesting reimbursement for</p>

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Cause	<p>by providing a copy of the invoice paid along with evidence of the payment (i.e. cancelled check, bank wire or ACH information, credit card statement).</p> <ul style="list-style-type: none"> ○ Invoices are not being reviewed properly to ensure all the required supporting documentation have been received before payment is issued.
Impact	<ul style="list-style-type: none"> ▪ Vendor was reimbursed for subcontractor expenses invoiced for work that may not have been performed.
Recommendation	<p>18) We recommend that the TDC establish clear policies and procedures for documenting subcontractor payments and reimbursement requests. This includes requiring vendors to provide documentation that the subcontractor has already been paid for the services that the vendor is requesting reimbursement for. A clear process for verifying the accuracy and completeness of documentation should be established and followed to prevent any future violations. Additionally, the TDC should consider implementing a process for conducting periodic audits to ensure compliance with the policy.</p>
Management's Response Action Plan	
Owner/Responsible Personnel	
Target Completion Date	

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4: Special Project Expenditures – Two Oceans	
Accounts Payable: Special Projects Contract Terms	
Criteria	<ul style="list-style-type: none"> The Contractor is authorized to bill the County for special projects that have been approved by the TDC or TDC Marketing Director but fall outside the scope of services outlined in the master contract.
Conditions (3) 19 – Medium Risk 20 & 21 – High Risk	<p>19. Per our review of the terms in the Master Contract, there was no clear definition of what constitutes a special project. This lack of clarity can lead to confusion and disagreements regarding what activities and expenses can be categorized as special projects. This ambiguity can result in inconsistencies in the application of rules and regulations, which can ultimately lead to non-compliance and financial mismanagement.</p> <p>20. Per our review, the Master Contract Section 4, Part a (pgs. 5-6) does not provide adequate detail and guidelines to ensure that Two Oceans is leveraging resources provided under sections 2 & 3 prior to or to prevent incurring duplicative expenses provided under Section 4, Part a.</p> <p>21. Our review indicates that the TDC has committed to paying for certain services without conducting a comparison of the charges and/or services with the contract's obligated services. This lack of comparison may lead to potential monetary loss for the TDC by resulting in:</p> <ol style="list-style-type: none"> Overpayment: <i>Hosting charges were overcharged and overpaid by \$0.04 per year.</i> Payment for redundant services included in the compensation package outlined in the contract's scope of services: <i>Personnel time was overcharged and overpaid by \$44,548.80 from all special projects tested.</i> Payment and cost for services not properly approved and/or covered within the contract: <i>The inclusion of CrowdRiff Software in the Marketing Plan lacked the necessary approval from the Marketing Director or BOCC. This is due to the fact that the Marketing Plan did not account for the associated costs of the software, and the costs were not incorporated into the contract. The sole approval noted was in an email from Two Oceans, indicating that the software costs would be covered by their annual budget and that it was referenced in the Marketing Plan.</i>
Cause	<ul style="list-style-type: none"> The contract contains ambiguous language regarding the definition and approval process for special projects.
Impact	<ul style="list-style-type: none"> The contract's ambiguous language has resulted in the TDC committing to paying for certain services without proper comparison to the charges and/or services outlined in the contract's obligated services.
Recommendations (3)	<p>19) We recommend a thorough review of the goods or services being billed should be conducted to determine whether they fall within the scope of services outlined in the master contract or should be considered a special project. A "special project" for a website and digital services agency can be defined as a unique and non-routine initiative that requires specialized skills, effort, and resources beyond the scope of regular services provided to clients. It may involve developing new or custom features, creating content, optimizing website performance, or implementing a new digital marketing strategy or campaign. Typically, a special project requires a separate agreement or addendum to the existing contract outlining the scope of work, timelines, milestones, and costs associated with the project.</p>

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	<p>20) We recommend that the identification methodology and characteristics of a "special project" be formally defined in the contract to ensure transparency and accountability for how goods and services are categorized and billed in compliance with what is allowable in the contract.</p> <p>21) We recommended that the TDC implement a process to ensure that all payments are made in compliance with the contract's terms and conditions, which includes conducting a thorough comparison of services and charges before making any payments. This process will ensure transparency and accountability in the payment process, ultimately leading to improved efficiency and cost-effectiveness.</p>
Management's Response	
Action Plan Owner/Responsible Personnel	
Target Completion Date	

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5: Third Party Contract Governance and Administration – TDC	
Governance	
Criteria	<ul style="list-style-type: none"> Continuing contracts shall be chosen by the competitive selection process. During the selection process, a selection committee shall rank the professional service contractors. The Board of County Commissioners shall approve the award of each contract for a general continuing contract. The number of contractors to be chosen shall be at the discretion of the Board of County Commissioners.
Conditions (3) 22 - Medium Risk 23 & 24 – High Risk	<p>22. The Master Contract's section 3, parts a, and u, it appears that while the "contractor shall design, develop, program, maintain and host the website", it is Monroe County and the TDC who retains all approvals and have the "sole and exclusive right to the authorization ... of any mode of revenue-producing program." However, the determination of the website ownership is not clearly stated. The lack of definition can lead to disagreements, misunderstandings, and potential legal or financial risks.</p> <p>23. The Marketing Director also served as the Executive Director of the TDC. The Procurement Officer of the Office of Management and Budget ("OMB") serves as a resource for the TDC. However, the lack of oversight and accountability of Management that has the appropriate education, experience, cross-training, and knowledge of industry best practice standards has resulted the inability to provide reasonable assurance that the TDC is upholding its fiduciary responsibilities. This resulted in bias and non-competitive Requests for Proposals (RFPs) and TDC contracts.</p> <p>24. The current policies related to procurement do not clearly state a policy for third-party management. This shows a gap in the policy where vendor management responsibility is not specifically placed nor is there any hierarchy of governance over third-party management. This indicates that third-party management tasks such as vendor risk management assessments, background searches, verifications, or performance monitoring, are not being performed regularly or at all.</p>
Cause	<ul style="list-style-type: none"> A lack of clarity and oversight in contract language, leadership positions, and policies related to procurement and third-party management.
Impact	<ul style="list-style-type: none"> These factors have led to inefficiencies, potential improprieties, and increased risk for legal or financial repercussions.
Recommendations (3)	<p>22) We recommend that the TDC defines the basis of ownership for the services and website clearly and unambiguously in the contract to prevent any misunderstandings that may occur in future proceedings. This involves identifying who owns the intellectual property rights or other proprietary information, defining ownership of any software, code, or other materials developed as part of the services provided by the digital agency. Defining ownership in the contract ensures that both parties have a clear understanding of their respective rights and obligations under the agreement and may prevent any potential disputes or disagreements that may arise in the future.</p> <p>23) We recommend that the TDC appoint officers to provide adequate governance concerning the structuring of Requests for Proposals (RFPs) and contracts. The officers should have clear roles and responsibilities in the procurement process, including overseeing the development of RFPs and contracts, evaluating vendor</p>

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

	<p>proposals, and negotiating contracts. They should also ensure that the procurement process is in compliance with applicable laws and regulations, including the Monroe County Purchasing Policy. This will ensure that the procurement process is transparent, fair, and competitive.</p> <p>24) We recommend the TDC implements a comprehensive framework for procurement and contract vendor management, which should include documentation of requirements, roles and responsibilities, and approval processes. The TDC should also create and implement a conflict-of-interest policy and regularly audit its operations to ensure compliance with policies and procedures, controls, and laws, including vendor compliance.</p>
Procurement: Vendor Management	
Criteria (2)	<ul style="list-style-type: none"> • Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party. • The Contractor shall furnish monthly reports to the TDC.
Conditions (2) High Risk	<p>25. The contract states multiple times and in no uncertain terms that all related documents and records from Two Oceans Digital pertaining to this contract shall be made readily available to the TDC and their auditors in a reasonable amount of time. However, throughout this audit, we have had multiple issues with receiving requested documentation within the allotted time. Out of 6 documentation requests from Two Oceans Digital, all 6 were received past the stated deadline, ranging from 8-49 days late. As a result, Two Oceans is not in compliance to their contractual obligations which raises concerns regarding the relationship between Two Oceans and the TDC.</p> <p>26. Upon conducting our testing, we have observed that Two Oceans Digital, as per the contractual obligations, is required to provide monthly analytics reports. However, our findings reveal that Two Oceans only provided TDC the analytics report during the TDC Regular meetings which are not held on a monthly basis. Out of the nineteen months tested, only thirteen months had the analytics reports supplied. As a result, Two Oceans is not in compliance to their contractual obligations which indicates a deficiency in Two Oceans Digital's adherence to the contract and raises concerns regarding the TDC's vendor management policies.</p>
Cause	<ul style="list-style-type: none"> o A lack of oversight and enforcement of contractual obligations by the TDC over the vendor contract with Two Oceans Digital.
Impact	<ul style="list-style-type: none"> ▪ Lack of accurate and complete information provided by Two Oceans Digital and lack of accountability and transparency in the TDC and Monroe County's vendor management policies and procedures hinders the TDC's decision-making abilities and may result in adverse legal or financial repercussions for Monroe County.
Recommendations (2)	<p>25) We recommend that the TDC improves their procurement strategy by vetting contractors during bidding and regularly monitoring vendors' performance using KPIs.</p> <p>26) We recommend that the TDC should also utilize contracts and service level agreements for all third-party services to ensure both parties understand their obligations. Additionally, the TDC should implement a policy of</p>

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

	<p>periodic audits to ensure compliance with policies and procedures, controls, and laws, including vendor compliance.</p> <ul style="list-style-type: none"> a. The goal of a Service Level Agreement (SLA) is to establish a clear understanding between a service provider and the recipient regarding the level of service expected, the responsibilities of each party, and the KPIs used to measure performance. The main benefit of an SLA is that it sets realistic expectations for both parties, ensuring that the service provider delivers consistent and high-quality service while the recipient of the service receives the level of service they require. Additionally, an SLA provides a framework for resolving disputes, addressing issues, and improving the overall quality of the service over time. The benefit of having a well-defined SLA in place is that both parties can build trust and maintain a positive working relationship. b. The SLA components include: <ul style="list-style-type: none"> i. Overview ii. Goals and objectives iii. Roles and responsibilities iv. Periodic reviews v. Service scope, customer requirement, service providers & assumptions vi. Exclusions vii. Reporting viii. Termination of service
Management's Response	
Action Plan	
Owner/Responsible Personnel	
Target Completion Date	

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

6: Revenue Generation – Two Oceans	
Governance	
Criteria	<ul style="list-style-type: none"> Continuing contracts shall be chosen by the competitive selection process. During the selection process, a selection committee shall rank the professional service contractors. Competitive Solicitation specifications should be written broadly enough to encourage a broad range of responses. Competitive solicitation specifications should not be written to steer prospective responders toward the competitive solicitation or "rig" the competitive solicitation for any one particular vendor.
Conditions (2) High Risk	<p>27. Section 4(a) of the contract agreement states Two Oceans will perform the listed support services in exchange for the exclusive right to retain all advertising revenue generated from the website. Two Oceans has reported that ad revenue has been approximately \$600,000 per year. However, we were unable to validate the accuracy of this estimate; it is possible ad revenue could have exceeded this amount. The TDC has also paid Two Oceans approximately \$100,000 per year for special projects and other services. The cost to obtain these services from another vendor is approximately \$80,000 to \$120,000.</p> <p>28. Ft Lauderdale/Broward County TDC utilized a third party to develop their website, however, based on the available data it does not appear to have paid advertising on the site. Six other TDCs appeared to maintain and develop their websites in-house. Three of the six do have paid advertising. Although, based on the available data it does not appear any other TDC has relinquished advertising revenue generated to develop and maintain their site.</p>
Cause	<ul style="list-style-type: none"> The procurement process for the contract in question did not comply with Monroe County Purchasing Policy, as it was not competitively bid in an objective manner. It appears that no research was conducted prior to the drafting of the 2020 Website and Digital Services RFP to assess whether the arrangement was still in the best interest of the TDC and the County.
Impact	<ul style="list-style-type: none"> The RFP selection process was biased and too prescriptive, thereby limiting competitive bids and resulting in significant overpayment for services rendered, when compared with market pricing for similar services.
Recommendations (2)	<p>27) We recommend Monroe County engage the services of an experienced RFP writer to overhaul the RFP for any upcoming bidding or advertising of these services to be more in line with the industry or bring the website services in-house.</p> <p>28) We recommend that advertising revenue be retained by the TDC and/or Monroe County and that future contracts follow a standard RFP process whereby expenses incurred for services rendered will be billed based on agreed upon rates and contractual terms. We recommend that Monroe County obtain a quote from Two Oceans with a breakdown of the cost based on time and materials. This will support decision making on whether the TDC should change its billing structure.</p>
Financial Reporting: ACFR	
Criteria	<ul style="list-style-type: none"> The website should be capitalized following GASB 94. "If an underlying PPP asset is a new asset purchased or constructed by the operator, recognized in accordance with paragraph 15a, the transferor

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

	initially should measure the underlying PPP asset at acquisition value when the asset is placed into service."
Condition Low Risk	29. It is not clear if the website was capitalized when created in 1995 but should be in the future if a new site is developed.
Cause	<ul style="list-style-type: none"> o The website was not potentially viewed as an asset when created.
Impact	<ul style="list-style-type: none"> ▪ Financial statements may be misstated.
Recommendation	29) We recommend that the County should determine if the website has been capitalized when created in 1995 as an asset per GASB 94 and take remediation efforts if the website has not been properly reported on the County's Financial Statements.
Procurement: Vendor Management for Contract Awarding	
Criteria	<ul style="list-style-type: none"> • The County must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, including County laws and policies, record of past performance, and financial and technical resources.
Condition High Risk	30. Section 6 in the contract between Two Oceans and Monroe County gives the County the right to audit the contractor's financial records "directly pertinent" to the performance of the agreement and have "reasonable and timely access" to their records. We requested Cooke Communications Florida LLC's Income Statements for January 2021 through December 2023 and the respective tax returns for those years. The Income Statements were provided late, the revenue generated by the special projects does not agree with the expenses paid by Monroe County. The revenue reported in 2021 is underreported by \$60,600.04. The revenue reported in 2022 is underreported by \$57,719.04. The revenue reported in 2023 is overreported by \$3,750.05. Two Oceans' Attorney, stated the owner consolidates his taxes under a holding company and is not able to provide only the Two Oceans information without additional time and resources so we are unable to determine if this revenue is being reported to the IRS without this vendor information. Therefore, we are unable to confirm and reconcile the revenue earned and reported to the IRS by Two Oceans with the revenue breakdown provided to us during this audit by Two Oceans.
Cause	<ul style="list-style-type: none"> o The vendor did not provide the requested documents as per the right to audit clause in the agreement.
Impact	<ul style="list-style-type: none"> ▪ If the TDC does not conduct a periodic review of their contractors' services provided, there is a risk of continuing to award contracts to noncompliant contractors and paying for services not actually rendered to the contracts' specifications.
Recommendation	30) We recommend the County Attorney follow up with Two Oceans to provide their tax returns for the County to verify their ad revenue is being properly reported.
Management's Response	
Action Plan	

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

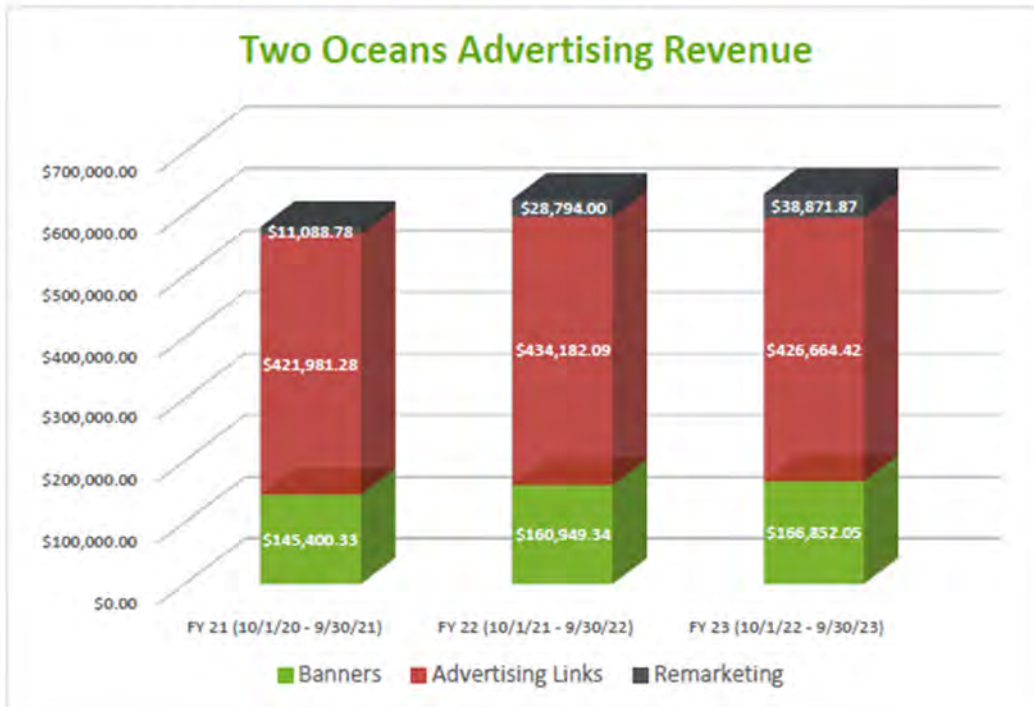
Owner/Responsible Personnel Target Completion Date	
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Appendix A: Revenue Comparative Analysis Results

Two Oceans Advertising Revenue:

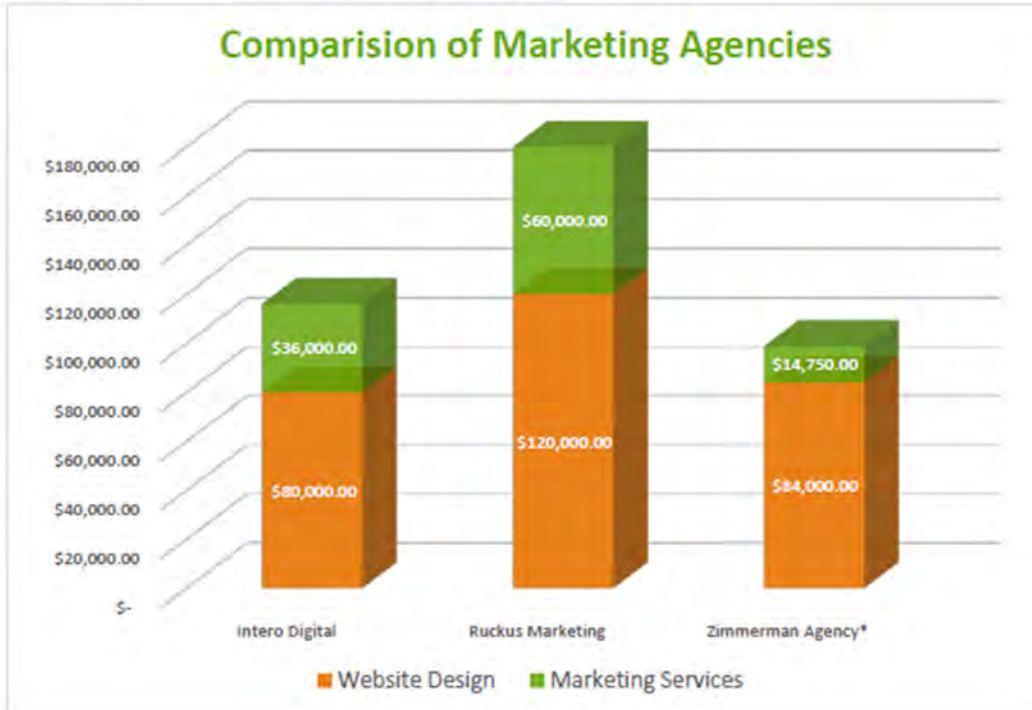
This graph shows the revenue earned by Two Oceans for the three different revenue streams (Banners, Advertising Links, Remarketing). As reported by Two Oceans, the revenue has increased each of the last three years. We were not able to validate the accuracy of the revenue reported by Two Oceans; it is possible the revenue exceeded the reported amount.



TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Comparison of Marketing Agencies:

This graph illustrates a comparison of the website development and marketing services similarly offered by Two Oceans by three competing marketing firms.

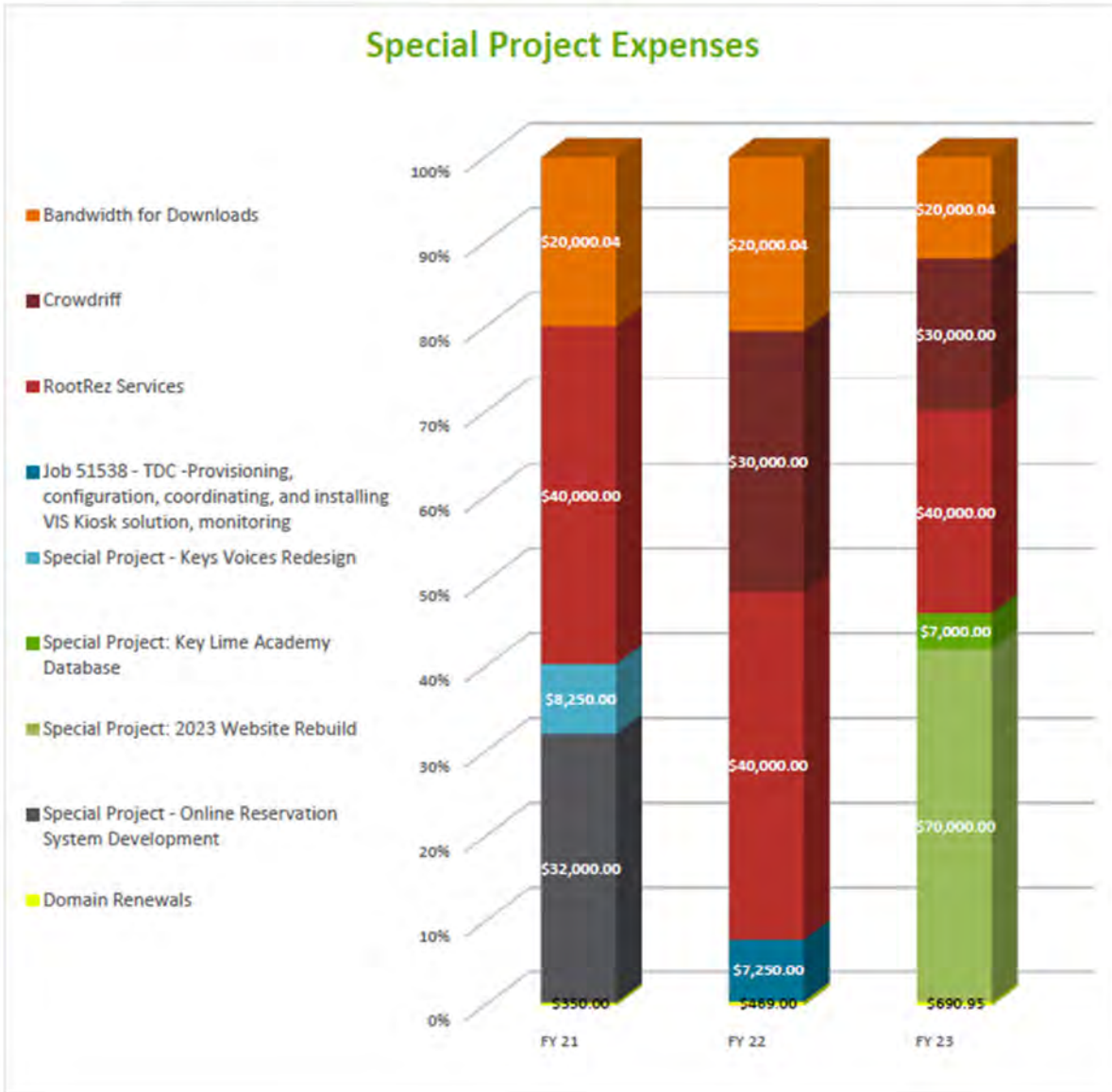


*Zimmerman Agency quoted price is in response to the RFP which states they would also receive exclusive rights to the Ad Revenue.

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Special Project Expenses:

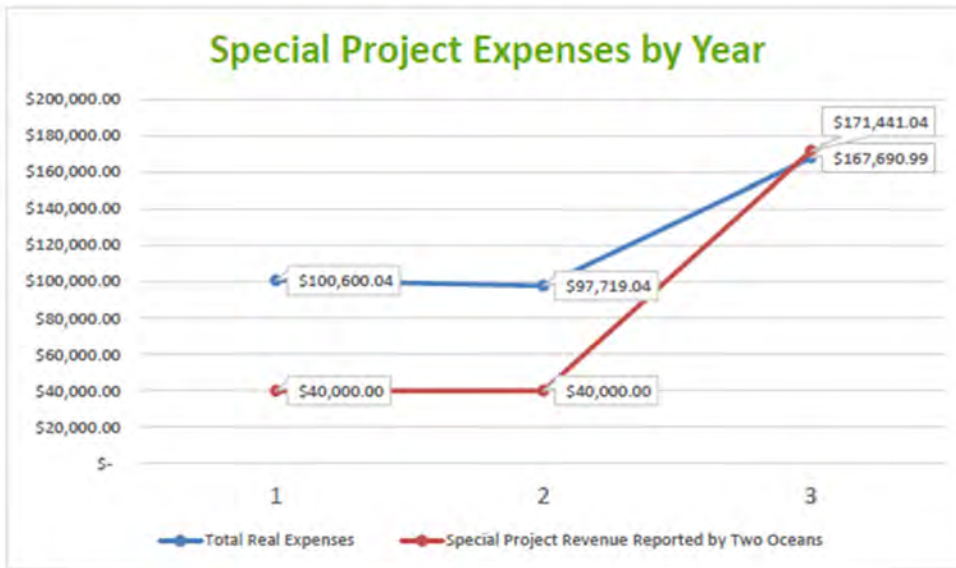
This graph illustrates the expenses for each special project year over year. The next graph illustrates the total expenses for special projects by year.



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Special Project Expenses by Year:

This graph illustrates the special project expenses paid by the TDC for each year and the revenue reported on Two Oceans Income Statements for the respective years. The special project expenses have dramatically increased in fiscal year 2023.

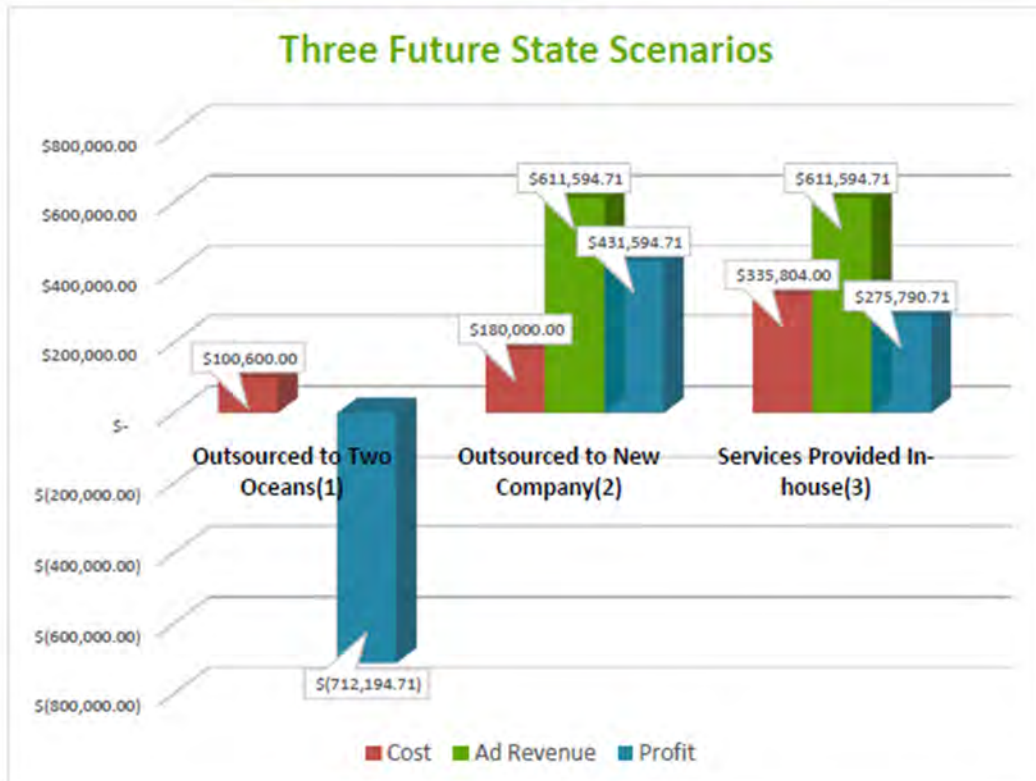


*The revenue reported by Two Oceans includes account 39420 TDC Special Projects and 39465 Lodging Reservations.

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

Three Future State Scenarios:

This chart illustrates the three potential future state scenarios. The first scenario would be to continue outsourcing the services to Two Oceans. The second scenario would be to outsource the services to another company and the County/TDC retains the ad revenue. Finally, the third scenario would be to provide the services in-house which would require hiring specialized staff and retaining the ad revenue.



- (1) Loss includes the lost opportunity cost of ad revenue with this scenario. Scenario calculated with retained ad revenue. (2) Ruckus Marketing costs used as this was the highest quote obtained. (3) Scenario calculated with retained ad revenue.

TWO OCEANS DIGITAL WEBSITE AND DIGITAL SERVICES AUDIT

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Appendix II

**Current Contract Between
Monroe County
And
Two Oceans Digital**

AGREEMENT

THIS AGREEMENT (Agreement), made and entered into this this 19th day of August 2020, A.D., by and between Monroe County, Florida, (hereinafter called the County), and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** (hereinafter called the Contractor).

WITNESSETH:

WHEREAS, a Request for Competitive Solicitations for the TDC website was issued on March 2, 2020; and

WHEREAS, Contractor is recommended by the selection committee to be awarded the Agreement and is otherwise qualified to provide professional website and digital services which includes consulting and technological advice relating to the Tourist Development Council (TDC) website, and

WHEREAS, the TDC website is a vital component to the promotion of tourism in the Florida Keys, and

WHEREAS, the TDC, an advisory board to the County's Board of County Commissioners (BOCC) has recommended to County that an Agreement for website and digital provider services be entered into with Contractor, and

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Term: The term of this Agreement is for a period of three (3) years beginning October 1, 2020 and expiring on September 30, 2023. The County shall have an option to extend the Agreement for one additional two (2) year period.
2. Scope of Services: The Contractor shall provide Website and Digital Provider Services for the Monroe County TDC as described below:
 - a) Key Personnel: This Agreement is a Professional Services Agreement with the expectation that principal personnel will be performing the services. A list of the principal personnel will be given to the TDC for their record, and the TDC shall be informed of any changes in TDC Senior Account Executive(s) position(s).
 - b) At least one Senior Account Executive shall meet with the Monroe County TDC at all regularly scheduled meetings of the TDC Board and at any other times as directed by the TDC.
 - c) The Contractor agrees to assign a Senior Account Executive who will devote such time and effort as necessary to the account on a priority basis, including full time and emergency situations when required. Duties of the Senior Account Executive or Contractor's assigned representative will include contact as required with the Chairman of the TDC and TDC Marketing Director or other designees. Other duties include

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consultations with TDC staff, TDC Advisory Committees from the five districts and Umbrella Committees within the Florida Keys as directed by the TDC; and participation and coordination of other related areas of tourism development as it relates to the development of an effective website and digital services program to the TDC.

- d) Key Personnel will also include a Search Engine Optimization (SEO) Specialist to maintain current SEO standards, and a Search Engine Marketing (SEM) Specialist to maintain current paid search techniques and keep abreast of and implement opportunities as they arise.

3. The Contractor agrees to the following services:

- a) The Contractor shall design, develop, program, maintain and host the website for the County on behalf of the TDC, who retains all approvals.
- b) The site shall be comprehensive including a homepage, TDC district content, special Umbrella sections, places to stay, things to do and see, a calendar of events which can be sortable by date, location or event category, an accommodations search, transportation information, news stories, emergency/crisis management situation changes, electronic brochures, videos, live cams, social media connect functionality and other site categories which may require regular updating as deemed appropriate for marketing purposes by the TDC. The site must be created in responsive design or other best practices for those visitors on mobile and tablet devices.

Other website and digital service features and responsibilities include:

- Website adherence to WCAG 2.0 AA or greater accessibility standards to maintain ADA compliance, including regularly updating the website's Accessibility Statement
 - Interactive Maps
 - A search mechanism for the site
 - Integrated social media icons linked to the corresponding TDC social platforms
 - Website language translation capabilities
 - As TDC Marketing Plans evolve, collaboration with other agencies of record and the TDC Marketing Director to create new site sections or emphasis of themes
 - Maintaining versions of the website in foreign languages as directed by TDC Marketing Director and on each respective country's Top-level Domain (TLD).
 - In conjunction with the social media team, optimizing social platform graphics, creating custom Facebook tabs, and consulting as needed on social optimization observations
- c) The Contractor agrees to provide web hosting via a dedicated web server and database server not shared with any other entities.
 - d) The Contractor agrees to provide an Integrated Content Delivery Network (CDN) for advanced security and performance.

- e) The Contractor agrees to provide a high-availability firewall with 24/7 monitoring.
- f) The Contractor shall guarantee service uptime at more than 99% except as excused by the conditions of the Uncontrollable Circumstances paragraph of this Agreement.
- g) The Contractor agrees to identify and furnish safeguards and backups located in different geographical areas to protect electronic data and programming from both natural and manmade disasters to provide continuous, uninterrupted service.
- h) The Contractor agrees to host e-mail for the TDC Staff and agencies of record as deemed necessary. The e-mail accounts should have a web-based component that can be accessed from anywhere. The e-mail should have premium virus and spam protection.
- i) The Contractor must be available to meet with District Advisory Committees, Umbrella Committees, marketing agencies of record, TDC Board, and TDC staff at regular set meetings or upon request.
- j) The Contractor agrees that the TDC will have editorial control and approval of the websites and all contents.
- k) The Contractor agrees that the TDC, along with its agencies of record, have the right to provide input on the design and creative content of the site. This shall be done by the Contractor upon approval and direction by the TDC Marketing Director.
- l) The Contractor shall maintain real-time, live webcams on the TDC website at different locations or events in Monroe County as mutually agreed by all parties.
- m) The Contractor shall furnish the setup and the capability to download any of the TDC promotional collateral products as online electronic fulfillment. These should be in Portable Document Format (PDF), and the Contractor shall provide a monthly report on the number of downloads of each category.
- n) The Contractor shall furnish the setup and capability to develop travel trade fulfillment, such as travel agent request forms and meeting planner's Request for Proposal (RFP) forms to be sent electronically.
- o) The Contractor shall furnish a list server service to capture e-mail addresses for Monroe County TDC promotional and communication needs. The TDC will own the e-mail addresses for their exclusive use only. In addition contractor will maintain an Alert e-mail subscription and management list, specifically for communicating to local area businesses and other tourism interested stakeholders regarding important, time-sensitive matters.
- p) The Contractor shall implement the latest search engine optimization (SEO) practices to ensure prominent organic search engine rankings.

- q) The Contractor shall furnish monthly reports to the TDC, which track site conversions and other Key Performance Indicators (KPIs) in addition to common analytical data including: the number of user sessions (new and returning), page views, average session duration, native languages, geographic origins, source and medium of traffic, most requested pages, top referring URLs, device types, and other requested TDC research assessment of services reports. The report numbers may be audited and verified by an independent entity.
- r) The Contractor shall have the right to create websites, internet ads or other forms of digital marketing for tourism industry partners and charge the industry for those services. The Contractor agrees to have dedicated sales staff to adequately cover all of Monroe County in equal marketing sales distribution efforts.
- s) The Contractor shall implement a custom, password-protected Content Management System (CMS) to be utilized by the Contractor, TDC Marketing Director, and TDC marketing agencies of record. This CMS will provide for administrative capabilities to independently update site content such as news, events calendar, videos-of-the-week, meeting agenda upload and linking functionality, special environmental content, or other dynamic pages as needed. The CMS must also provide Website Alerts functionality, with text and links for additional information and resources.
- t) The Contractor shall maintain a custom App in both iOS and Android versions with Push Notification capabilities.
- u) The TDC shall have the sole and exclusive right to the authorization of sales, merchandising, reservation system, or any mode of revenue-producing program, which authorization shall be established through guidelines approved by the TDC as shown in Exhibit A.
- v) The TDC agrees that the artwork, editorial, and photographic material, to be commonly known as 'data' collected or prepared by the TDC and/or its contracted agencies, will be released to the Contractor at no charge for use solely on the official website and other digital services, unless protected by copyrights or exclusive-use agreement.
- w) The TDC shall have the ability for the TDC Web Editor to manage free listings on the website in tourism categories approved by the TDC.

4. Compensation:

- a) The Contractor shall provide all services and support as listed in the Scope of Services at no charge to County or TDC in exchange for the exclusive right to retain all advertising revenues generated from the website. The TDC shall have the right to place sponsorship, partnership and TDC logo signature(s) on the site. The logo signature(s) will be in a mutually agreed upon format and location and will be at no cost to the TDC. In addition to the compensation for bandwidth service outlined in paragraph (b), below, the Contractor may also charge the County for special projects, approved by the TDC or TDC Marketing

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 Two Oceans Digital
 ID# 2455

Director, outside the Scope of Services, including but not limited to Contractor's attendance at educational or training programs in support of technology advances and enhancements, new site enhancements, technology, equipment, production, maintenance costs, webcam placement, and other enhancements. These special projects shall be paid for through purchase order procedures in amounts the total of which shall not to exceed the budgeted fiscal year line item.

- b) Bandwidth Service - The Contractor will be paid on an annual basis, a fee for the service providing electronic marketing collateral and downloading of videos from the website. These downloads are expected to average over 15 terabytes of bandwidth transfer per year with great spike fluctuations occurring with certain events or news. Contractor shall have enough bandwidth capacity to handle this average load in addition to having immediate access to additional bandwidth capacity as such peak times or events dictate. The annual cost for this service will be \$20,000 which shall be paid in eleven (11) monthly payments of \$1,666.66 and one (1) payment of \$1,666.74. Upon approval to exercise an option to extend this Agreement for an additional two (2) year period, the annual cost of service may be adjusted. Monroe County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the BOCC.
- c) Advertising sales guidelines are established within Exhibit A.
- d) Reimbursable Expenditures: The County will reimburse the Contractor for all approved expenditures and payments made on the County's behalf for approved special projects as outlined in paragraph (a), subject to state and County rules and regulations. Packaging, shipping, express mail, postage, legal expenses on behalf of County, and travel expense for Contractor's personnel shall be considered reimbursable expenses, subject to County's approval. Travel expenses of approved personnel on behalf of the business of the TDC shall be compensated at the rates established by Florida law and County policy.

5. Contractor's Acceptance of Conditions: The Contractor hereby agrees to carefully examine the Scope of Services and assumes full responsibility therefore. Under no circumstances, conditions or situations shall this Agreement be more strongly construed against the County than against the Contractor.

- a) Any ambiguity or uncertainty in the Scope of Services shall be interpreted and construed by the County, and the County's decision shall be final and binding upon all parties.
- b) The passing, approval and/or acceptance by the County of any of the services furnished by the Contractor shall not operate as a waiver by the County of strict compliance with the terms of this Agreement. Failure on the part of the Contractor, immediately after Notice to Correct a default, shall entitle the County, if it sees fit, to correct the same and recover the reasonable cost of such replacement and/or repair from the Contractor, who in any event shall be jointly and severally liable to the County for all damage, loss and expense caused to the County by reason of the Contractor's breach of this Agreement and/or his failure to comply strictly and in all things with this Agreement and with the specifications.

- c) The Contractor agrees that the TDC may designate representatives to visit the Contractor's facility(ies) periodically to conduct random open file evaluations during the Contractor's normal business hours.
- d) The Contractor warrants that it has, and shall maintain throughout the term of this Agreement, appropriate licenses and permits required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and permits shall be submitted to the County upon request.

6. Contractor's Financial Records and Right to Audit: Contractor shall maintain all books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to the Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the contractor shall repay the monies together with interest calculated pursuant to Sec. 55.03, Florida Statute, running from the date the monies were paid to Contractor.

Right to Audit

Availability of Records. The records of the parties to this Agreement relating to the Scope of Services/Project, which shall include but not be limited to accounting records (hard copy, as well as computer readable data if it can be made available; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, bidding instructions, bidders list, etc.); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); backcharge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; any other supporting evidence deemed necessary by County or the Monroe County Office of the Clerk of Court and Comptroller (hereinafter referred to as "County Clerk") to substantiate charges related to this agreement, and all other agreements, sources of information and matters that may in County's or the County Clerk's reasonable judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any contract document (all foregoing hereinafter referred to as "Records") shall be open to inspection and subject to audit and/or reproduction by County's representative and/or agents or the County Clerk. County or County Clerk may also conduct verifications such as, but not limited to, counting employees at the job site, witnessing the distribution of payroll, verifying payroll computations, overhead computations, observing vendor and supplier payments, miscellaneous allocations, special charges, verifying information and amounts through interviews and written confirmations with employees, Subcontractors, suppliers, and contractors representatives. All records shall be kept for ten (10) years after Final Completion of the Scope of Services/Project. The County Clerk possesses the independent authority to conduct an audit of Records, assets, and activities relating to this Scope of Services/Project. If any auditor employed by the Monroe County or County Clerk determines that monies paid to Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Contractor shall repay the monies together with interest calculated pursuant to Section 55.03, F.S., running from the date the monies were paid to Contractor. The *right to audit* provisions survives the termination of expiration of this Agreement.

7. Public Records Compliance: Contractor must comply with Florida public records laws, including but not limited to Chapter 119, Florida Statutes and Section 24 of article I of the Constitution of Florida. The County and Contractor shall allow and permit reasonable access to, and inspection of, all documents, records, papers, letters or other “public record” materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Contractor in conjunction with this contract and related to contract performance. The County shall have the right to unilaterally cancel this contract upon violation of this provision by the Contractor. Failure of the Contractor to abide by the terms of this provision shall be deemed a material breach of this contract and the County may enforce the terms of this provision in the form of a court proceeding and shall, as a prevailing party, be entitled to reimbursement of all attorney’s fees and costs associated with that proceeding. This provision shall survive any termination or expiration of the contract.

The Contractor is encouraged to consult with its advisors about Florida Public Records Law in order to comply with this provision.

Pursuant to F.S. 119.0701 and the terms and conditions of this contract, the Contractor is required to:

- (1) Keep and maintain public records that would be required by the County to perform the service.
- (2) Upon receipt from the County’s custodian of 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 provided in this chapter or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
- (4) Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records that would be required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County’s custodian of records, in a format that is compatible with the information technology systems of the County.
- (5) A request to inspect or copy public records relating to a County contract must be made directly to the County, but if the County does not possess the requested records, the County shall immediately notify the Contractor of the request, and the Contractor must provide the records to the County or allow the records to be inspected or copied within a reasonable time.

If the Contractor does not comply with the County's request for records, the County shall enforce the public records contract provisions in accordance with the contract, notwithstanding the County's option and right to unilaterally cancel this contract upon violation of this provision by the Contractor. A Contractor who fails to provide the public records to the County or pursuant to a valid public records request within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.

The Contractor shall not transfer custody, release, alter, destroy or otherwise dispose of any public records unless or otherwise provided in this provision or as otherwise provided by law.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, BRIAN BRADLEY AT PHONE# 305-292-3470 BRADLEY-BRIAN@MONROECOUNTY-FL.GOV, MONROE COUNTY ATTORNEY'S OFFICE 1111 12TH Street, SUITE 408, KEY WEST, FL 33040.

8. **Hold Harmless:** The Contractor covenants and agrees to indemnify and hold harmless the County and the TDC from any and all claims for bodily injury (including death), personal injury and property damage (including property owned by Monroe County) and any other losses, damages and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the Contractor or any of its subcontractors in any tier, occasioned by the negligence, errors or other wrongful act of omission of the Contractor or its subcontractors in any tier, their employees or agents.

9. **Independent Contractor:** At all times and for all purposes under this Agreement the Contractor is an Independent Contractor and not an employee of the County. No statement contained in this Agreement shall be construed so as to find the Contractor or any of his employees, contractors, servants or agents to be employees of the County.

10. **Nondiscrimination:** County and Contractor agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Contractor agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VII of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or

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alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC ss. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 12101 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Monroe County Code Chapter 14, Article II, which prohibits discrimination on the basis of race, color, sex, religion, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; 11) any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

11. Assignment/Subcontract: The Contractor shall not assign or subcontract its obligations under this Agreement, except in writing and with the prior written approval of the County and Contractor, which approval shall be subject to such conditions and provisions as the County may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this Agreement.

12. Compliance with Law: In providing all services/goods pursuant to this Agreement, the Contractor shall abide by all statutes, ordinances, rules and regulations pertaining to, or regulating the provisions of, such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this Agreement and shall entitle the County to terminate this Agreement immediately upon delivery of written notice of termination to the Contractor. The Contractor shall possess proper licenses to perform work in accordance with these specifications throughout the term of this Agreement.

13. Disclosure and Conflict of Interest: The Contractor represents that it, its directors, principles and employees, presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required by this Agreement, as provided in Sect. 112.311, et seq., Florida Statutes. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

Upon execution of this Agreement, and thereafter as changes may require, the Contractor shall notify the County of any financial interest it may have in any and all programs in Monroe County which the Contractor sponsors, endorses, recommends, supervises or requires for counseling, assistance, evaluation or treatment. This provision shall apply whether or not such program is required by statute, as a condition of probation, or is provided on a voluntary basis.

The County and Contractor warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or Contractor, other than a bona fide employee working solely for it, any fee,

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commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Contractor agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

14. Arrears: The Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any agreement, debt, obligation, judgment, lien or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

15. Notice Requirement: Any notice required or permitted under this Agreement shall be in writing and hand delivered or mailed, postage prepaid, to the other party by certified mail, return receipt requested, to the following:

FOR TDC: Maxine Pacini
Monroe County TDC
1201 White Street #102
Key West, FL 33040

FOR COUNTY: Christine Limbert-Barrows,
Assistant County Attorney
PO Box 1026
Key West, FL 33041-1026

FOR CONTRACTOR: Clint Barras
Two Oceans Digital
701 Simonton Street
Key West, FL 33040

16. Taxes: The County is exempt from payment of Florida State Sales and Use taxes. The Contractor shall not be exempted by virtue of the County's exemption from paying sales tax to its suppliers for materials used to fulfill its obligations under this Agreement, nor is the Contractor authorized to use the County's Tax Exemption Number in securing such materials. The Contractor shall be responsible for any and all taxes, or payments of withholding, related to services rendered under this Agreement.

17. Termination:

- a) The County may terminate this Agreement for cause with seven (7) days' notice to the Contractor. Cause shall constitute a breach of the obligations of the Contractor to perform the services enumerated as the Contractor's obligations under this Agreement.
- b) Either of the parties hereto may terminate this Agreement without cause by giving the other party ninety (90) days written notice of its intention to do so.
- c) For Contracts of any amount, if the County determines that the Contractor/Consultant has submitted a false certification under Section 287.135(5), Florida Statutes or has been

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placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the County shall have the option of (1) terminating the Agreement after it has given the Contractor/Consultant written notice and an opportunity to demonstrate the agency's determination of false certification was in error pursuant to Section 287.135(5)(a), Florida Statutes, or (2) maintaining the Agreement if the conditions of Section 287.135(4), Florida Statutes, are met.

- d) For Contracts of \$1,000,000 or more, if the County determines that the Contractor/Consultant submitted a false certification under Section 287.135(5), Florida Statutes, or if the Contractor/Consultant has been placed on the Scrutinized Companies with Activities in the Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, the County shall have the option of (1) terminating the Agreement after it has given the Contractor/Consultant written notice and an opportunity to demonstrate the agency's determination of false certification was in error pursuant to Section 287.135(5)(a), Florida Statutes, or (2) maintaining the Agreement if the conditions of Section 287.135(4), Florida Statutes, are met.

18. Governing Law, Venue, Interpretation, Costs and Fees:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely in the State.
- b) In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the County and Contractor agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.
- c) The County and Contractor agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them, the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.
- d) Severability. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Contractor agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
- e) Attorney's Fees and Costs. The County and Contractor agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative and out-of-pocket expenses, as an

award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

- f) **Adjudication of Disputes or Disagreements.** County and Contractor agree that all disputes and disagreements shall be attempted to be resolved by Meet and Confer Sessions between representatives of each of the parties. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.
- g) **Cooperation.** In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance or breach of this Agreement, County and Contractor agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Contractor specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

19. **Binding Effect:** The terms, covenants, conditions and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors and assigns.

20. **Authority:** Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

21. **Claims for Federal or State Aid:** Contractor and County agree that each shall be, and is, empowered to apply for, seek and obtain Federal and State funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals and funding solicitations are not for funding already provided under this Agreement.

22. **Privileges and Immunities:** All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and pensions and relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of the County, when performing their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers or employees outside the territorial limits of the County.

23. **Legal Obligations and Responsibilities:** Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory

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duties of the County, except to the extent permitted by the Florida constitution, state statute and case law.

24. Non-Reliance by Non-Parties: No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Contractor agree that neither the County nor the Contractor or any agent, officer or employee of either shall have the authority to inform, counsel or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

25. Attestations: Contractor agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement and a Drug-Free Workplace Statement.

26. No Personal Liability: No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

27. Insurance: The Contractor shall maintain the following required insurance throughout the entire term of this Agreement and any extensions. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of the Contractor to maintain the required insurance shall not extend any deadlines specified in this Agreement and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for Contractor's failure to maintain the required insurance.

The Contractor shall provide, to the County, as satisfactory evidence of the required insurance, either:

- * Certificate of Insurance
- OR
- * A Certified copy of the actual insurance policy

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this Agreement. All Insurance policies must specify that they have a thirty (30) day notice of cancellation, non-renewal, material change in policy language or reduction in coverage. The acceptance and/or approval of the Contractor's insurance shall not be construed as relieving the Contractor from any liability or obligation assumed under this Agreement or imposed by law. The Monroe County BOCC, its employees and officials shall be included as an "Additional Insured" on all insurance policies, except for Workers' Compensation, as their interests may appear in all policies issued to satisfy these requirements.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "Request for Waiver of Insurance Requirements". Any deviation must be approved in writing by Monroe County Risk Management.

- a) Prior to the commencement of work governed by this Agreement, the Contractor shall obtain Workers' Compensation Insurance with limits sufficient to comply with Florida Statute 440. In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

\$100,000	Bodily Injury by Accident
\$500,000	Bodily Injury by Disease
\$100,000	Bodily Injury by Disease, each Employee

Coverage shall be maintained throughout the entire term of this Agreement. Coverage shall be provided by a company or companies authorized to transact business in the state of Florida and the company or companies must maintain a minimum rating of A-V1, as assigned by the A.M. Best Company.

- b) Prior to the commencement of work governed by this Agreement, the Contractor shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the Agreement and include, as a minimum:

- * Premises Operations
- * Products and Completed Operations
- * Blanket Contractual Liability
- * Personal Injury Liability
- * Expanded Definition of Property Damage

The minimum limits acceptable shall be:

\$1,000,000 per Occurrence and \$1,000,000 Aggregate

If split limits are provided, the minimum limits acceptable shall be:

\$ 500,000 per Person
\$1,000,000 per Occurrence
\$ 100,000 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this Agreement. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

- c) Recognizing that the work governed by this Agreement involves the furnishing of advice or services of a professional nature, the Contractor shall purchase and maintain, throughout the life of the Agreement, Professional Liability Insurance, which will respond to damages

resulting from any claim arising out of the performance of professional services or any error or omission of the Contractor arising out of work governed by this Agreement.

The minimum limits of liability shall be: \$300,000 per Occurrence/\$500,000 Aggregate.

The Monroe County BOCC shall be named as Additional Insured as their interests may appear on all insurance policies issued to satisfy the above requirements.

28. Uncontrollable Circumstances: Any delay or failure of either Party to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence and that by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable: (a) acts of God; (b) flood, fire, earthquake, explosion, tropical storm, hurricane or other declared emergency in the geographic area of the Scope of Services/Project; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest in the geographic area of the Scope of Services/Project; (d) government order or law in the geographic area of the Scope of Services/Project; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority prohibiting work in the geographic area of the Scope of Services/Project;(each, a "Uncontrollable Circumstance"). CONTRACTOR'S financial inability to perform, changes in cost or availability of materials, components, or services, market conditions, or supplier actions or contract disputes will not excuse performance by Contractor under this Section. Contractor shall give County written notice within 7 days of any event or circumstance that is reasonably likely to result in an Uncontrollable Circumstance, and the anticipated duration of such Uncontrollable Circumstance. Contractor shall use all diligent efforts to end the Uncontrollable Circumstance, ensure that the effects of any Uncontrollable Circumstance are minimized and resume full performance under this Agreement. The County will not pay additional cost as a result of an Uncontrollable Circumstance.

29. Execution in Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

30. Section Headings: Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

31. E-Verify: Effective January 1, 2021: In accordance with F.S. 448.095, Contractor shall utilize the U.S. Department of Homeland Security's **E-Verify system** to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.



Kevin Madok, Clerk
[Signature]
Deputy Clerk

Board of County Commissioners
of Monroe County
[Signature]
Mayor/Chairman

(To be filled out by Contractor)

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By *[Signature]*
President

THOMAS COOKE
Print Name

6/15/2020
Date

AND TWO WITNESSES

(1) *[Signature]*

(2) _____

(1) KAJA WILLIAMS
Print Name

(2) Clinton Barras
Print Name

Date: 6/15/2020

Date: 6/15/2020

2020 SEP 10 PM 3:54
FOR RECORD
LLC, CIR, FL
MONROE COUNTY, FLA

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
[Signature]
CHRISTINE LEMBERT BARRAS
ASSISTANT COUNTY ATTORNEY
DATE 6/15/20

Website and Digital Services Agreement FY 2020
Two Oceans Digital
ID# 2455

Website and Digital Provider Sales Guidelines

This document will serve as guidelines and authorization to facilitate the website and digital services provider sales for the Monroe County TDC websites.

Advertising:

Banner Ads

The Contractor will have the opportunity to sell and place banner ads on the website. The banner ads should conform to internet standards pertaining to size and functionality to be approved by the TDC. There can be three (3) rotating banner ads per webpage. Banner ads may be sold throughout the site. Additional banners either rotating or fixed may be added upon the direction and approval of the TDC.

Hyperlinks

Advertising in the form of hyperlinks can be sold throughout the website. The TDC will allow links to tourist industry associations or organizations such as chambers of commerce, lodging associations, attractions associations, etc. at no cost at agreeable locations. The Contractor may offer the following options to the standard listing and event listings.

- Enhanced Listing - upgrades to the standard listing which include:
- Images, videos, map links, social media sharing options, and other enhancements that increase functionality and/or user experience.

Web Cam Sponsorships

Contractor can sell sponsorships for live webcams at different locations throughout the Florida Keys.

Remarketing

Contractor can sell remarketing services.

Advertising Allowances and Restrictions

Contractor can sell advertising to any national or international business that has a business interest in the Florida Keys. Any non-tourist related business must be approved in advance by the TDC Marketing Director and may not exceed one-third of the allowable banner space.

Local businesses should be limited to hyperlink advertising in the website section relating to the geographical region (TDC District) where the business is conducted. If business is conducted throughout the Keys, then that company can advertise throughout the entire website.

As new forms of Internet advertising evolve, the Contractor will have the opportunity to incorporate these as well; however, prior to implementation, the Contractor should receive approval from the TDC.

Merchandising

There is to be no TDC-related merchandising agreement without TDC approval in advance.

Reservation Services

There is no TDC website-related reservation service or booking mechanism on the TDC website. Only the TDC can approve such services if desired.



NON-COLLUSION AFFIDAVIT

I, Thomas K. Cooke of the city of Key West, Florida according to law on my oath, and under penalty of perjury, depose and say that:

I am President and CEO of the Agency of Cooke Communications Florida, LLC the Proposer making the Proposal for the project described in the Notice of Request for Competitive Solicitations for: County-Wide Website: Digital Services and that I executed the said Proposal with full authority to do so; and Provider

1. The prices in this Proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Proposer or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to Proposal opening, directly or indirectly, to any other Proposer or to any competitor;
3. No attempt has been made or will be made by the Proposer to induce any other person, partnership or corporation to submit, or not to submit, a Proposal for the purpose of restricting competition; and
4. The statements contained in this affidavit are true and correct, and made with full knowledge that Monroe County relies upon the truth of the statements contained in this affidavit in awarding agreements for said project.

[Signature]

(Signature of Proposer)

3/27/2020

(Date)

STATE OF: Florida

COUNTY OF: Monroe

PERSONALLY APPEARED BEFORE ME, the undersigned authority, Thomas K. Cooke who, after first being sworn by me, (name of individual signing) affixed his/her signature in the space provided above on this 27th day of March 2020.



[Signature]

NOTARY PUBLIC

4/9/2023

Competitive Solicitation for County-wide Website and Digital Services Provider - 2020



ETHICS CLAUSE

SWORN STATEMENT UNDER ORDINANCE NO. 10-1990
MONROE COUNTY, FLORIDA

Thomas K. Cooke warrants that he/it has not employed, retained or otherwise had act on his/its behalf any former County officer or employee in violation of Section 2 of Ordinance No. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of this provision the County may, in its discretion, terminate this Agreement without liability and may also, in its discretion, deduct from the Agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

[Signature]
(Signature)
3/27/2020
(Date)

STATE OF Florida
COUNTY OF Monroe

PERSONALLY APPEARED BEFORE ME, the undersigned authority, Thomas K Cooke who, after first being sworn by me, affixed his/her signature (name of individual signing) in the space provided above on this 27th day of March, 2020.



[Signature]
NOTARY PUBLIC
My commission expires: 4/9/2023

OMB - MCP FORM #4

Competitive Solicitation for County-wide Website and Digital Services Provider - 2020



DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that:

Cooke Communications Florida, LLC d.b.a. Two Oceans Digital
(Name of Business)

1. Publishes a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Informs employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Gives each employee engaged in providing the commodities or contractual services that are under Proposal a copy of the statement specified in Subsection 1.04.
4. In the statement specified in Subsection 1, notifies the employees that, as a condition of working on the commodities or contractual services that are under Proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 (Florida Statutes) or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Imposes a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, or any employee who is so convicted.
6. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of this Section.

As the person authorized to sign the statement, I certify that this Agency complies fully with the above requirements.

[Signature]
Proposer's Signature

3/27/2020
Date



PUBLIC ENTITY CRIME STATEMENT

"A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a CONTRACTOR, supplier, subcontractor, or CONTRACTOR under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

I have read the above and state that neither Cooke Communications Florida, LLC (Respondent's name) nor any Affiliate has been placed on the convicted vendor list within the last 36 months.

[Signature]
(Signature)

Date: 3/27/2020

STATE OF: Florida

COUNTY OF: Monroe

Subscribed and sworn to (or affirmed) before me on March 27, 2020
(date) by Thomas K Cooke (name of affiant). He/She is personally
known to me or has produced _____ (type of identification)
as identification.



[Signature]
NOTARY PUBLIC

My Commission Expires: 4/9/2023



INSURANCE AGENT'S STATEMENT

I have reviewed the above requirements with the bidder named below. The following deductibles apply to the corresponding policy

Policy	Deductibles

Liability policies are Occurrence Claims Made

Arthur J. Gallagher
Insurance Agency

[Signature]
Signature

BIDDERS STATEMENT

I understand the insurance that will be mandatory if awarded the contract and will comply in full with all the requirements.

Thomas Cooke, President/CEO
Bidder's Name and Title

[Signature]
Signature

Company Name: Cooke Communications Florida, LLC
D.B.A. Two Oceans Digital

AMENDMENT (1st AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 17th day of November 2020, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, the parties desire to Amend Agreement to include a online booking system to the destinations website and adjust compensation to Include costs associated with said service; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to the amended Agreement as follows:

1. Paragraph 4 shall be revised to include item e) Contractor shall implement an online reservation booking system with Advance Reservations Systems, Inc. on the destinations website commencing January 1, 2021. Contractor shall be reimbursed associated cost as follows:
 - a. Fiscal Year 2021 (October 1, 2020 to September 30, 2021) cost shall not exceed \$62,000, to include a onetime advance set up fee of \$32,000; a onetime advance quarterly service fee of \$10,000, and two additional quarterly payments of \$10,000.
 - b. Fiscal Years 2022-2023 (October 1, 2021 to September 30, 2023) cost shall not exceed \$40,000/Fiscal Year to be invoiced in quarterly service payments of \$10,000.
2. The remaining provisions of the Agreement dated August 19, as amended, shall remain in full force and effect.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Amendment #1
Two Oceans Digital
Contract #: 2455



IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

Kevin Madok, Clerk

Samuel Stanwick

As Deputy Clerk

Board of County Commissioners
of Monroe County

Michelle Collier

Mayor/Chairman

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By: [Signature]

President

THOMAS L. COOK

Print Name

Date: 10/17/2020

AND TWO WITNESSES

(1) [Signature]

(1) Clint Barras

Print Name

Date: 10/14/2020

(2) [Signature]

(2) ANNIE BRIENING

Print Name

Date: 10/14/2020

CLERK OF
MONROE COUNTY, FLA

2020 NOV 24 PM 3:11
FILED FOR RECORD

Amendment #1
Two Oceans Digital
Contract #: 2455

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Lambert-Barrows
CHRISTINE LAMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
DATE 10/30/20

AMENDMENT (2nd AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 21st day of April 2021, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, there was an Amendment to Agreement entered into on November 17, 2020 to include a online booking system to the destinations website and adjust compensation to include costs associated with said service; and

WHEREAS, it has become necessary to amend the name of the reservation booking system from Advance Reservations Systems, Inc. to Root Reservation, LLC;

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to amend the Agreement as follows:

1. Paragraph 4 shall be revised to include item e) Contractor shall implement an online reservation booking system with Root Reservations, LLC on the destinations website commencing January 1, 2021. Changes to the contracting organization for the online reservation booking system shall be sent to the TDC for approval. Contractor shall be reimbursed associated cost as follows:
 - a. Fiscal Year 2021 (October 1, 2020 to September 30, 2021) cost shall not exceed \$62,000, to include a onetime advance set up fee of \$32,000; a onetime advance quarterly service fee of \$10,000, and two additional quarterly payments of \$10,000.
 - b. Fiscal Years 2022-2023 (October 1, 2021 to September 30, 2023) cost shall not exceed \$40,000/Fiscal Year to be invoiced in quarterly service payments of \$10,000.
2. The remaining provisions of the Agreement dated August 19, as amended, shall remain in full force and effect.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Amendment #2
Two Oceans Digital
Contract #: 2455



IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year that above written.

SEAL
Clerk: Kevin Madok, Clerk

Family Stansel

As Deputy Clerk

Board of County Commissioners
of Monroe County

Micellette Colston

Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Christine Lambert-Barras
CHRISTINE LAMBERT-BARRAS
ASSISTANT COUNTY ATTORNEY
DATE: 3/9/21

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By [Signature]

President

Thomas Cooke

Print Name

Date: 3/1/2021

AND TWO WITNESSES

(1) [Signature]
(1) Clinton Barras

Print Name

Date: 3/1/21

(2) [Signature]
(2) Lyn Barras

Print Name

Date: 3-1-21

Amendment #2
Two Oceans Digital
Contract #: 2455

FILED RECORD
MAR 23 2021 11:56
CLERK OF COUNTY, FL

AMENDMENT (3rd AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 21st day of June 2023, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, there was an Amendment to Agreement entered into on November 17, 2020 to include a online booking system to the destinations website and adjust compensation to include costs associated with said service; and

WHEREAS, there was an Amendment to Agreement entered into on April 21, 2021 to amend the name of the reservation booking system from Advance Reservations Systems, Inc. to Root Reservation, LLC; and

WHEREAS, the Agreement expires on September 30, 2023 and there in an option to extend the Agreement for an additional two (2) year period with the option to adjust the cost of bandwidth services; and

WHEREAS, the parties wish to exercise the option to extend the Agreement for an additional two (2) year period and to adjust to cost of bandwidth services from \$20,000/year to \$35,000/year; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to amend the Agreement as follows:

1. Paragraph 1 shall be revised to read: Term: This Agreement shall expire on September 30, 2025.
2. Paragraph 4.b. shall be revised to read: Bandwidth Service - The Contractor will be paid on an annual basis, a fee for the service providing electronic marketing collateral and downloading of videos from the website. These downloads are expected to average over 15 terabytes of bandwidth transfer per year with great spike fluctuations occurring with certain events or news. Contractor shall have enough bandwidth capacity to handle this average load in addition to having immediate access to additional bandwidth capacity as such peak times or events dictate. The annual cost for this service will be \$35,000 which shall be paid in eleven (11) monthly payments of \$2,916.66 and one (1) payment of \$2,916.74. Monroe County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the BOCC.
3. The remaining provisions of the Agreement dated August 19, 2020 and as amended on November 17, 2020 and April 2021, shall remain in full force and effect.

Amendment #3
Two Oceans Digital
Contract #: 2455



IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

Board of County Commissioners
of Monroe County

Attest: Kevin Madok, Clerk

James Starnes

Holly [Signature]

As Deputy Clerk

Mayor Pro Tem

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Lambert-Barrow
CHRISTINE LAMBERT-BARROW
ASSISTANT COUNTY ATTORNEY
DATE: 5/22/23

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By [Signature]

President

Thomas Cooke

Print Name

Date: 5/13/2023

AND TWO WITNESSES

(1) [Signature]

(1) Clinton Barras

Print Name

Date: 5/9/2023

(2) [Signature]

(2) Karrissa Hamilton

Print Name

Date: 5/9/23

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2023 JUN 22 AM 10:34
CLK. CIR. CL.
MONROE COUNTY, FLA

Amendment #3
Two Oceans Digital
Contract #: 2455

AMENDMENT (4TH AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 20th day of September 2023, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, there was an Amendment to Agreement entered into on November 17, 2020 to include a online booking system to the destinations website and adjust compensation to include costs associated with said service; and

WHEREAS, there was an Amendment to Agreement entered into on April 21, 2021 to amend the name of the reservation booking system from Advance Reservations Systems, Inc. to Root Reservation, LLC; and

WHEREAS, there was an Amendment to Agreement entered into on June 21, 2023 to extend the Agreement to September 30, 2023 to adjust the cost of bandwidth services; and

WHEREAS, it is necessary to Amend the Agreement to continue the inclusion of an online booking system and associated cost with said services and to amend the name of the online booking system from Root Reservation, LLC to Ripe, Inc.; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to amend the Agreement as follows:

1. Paragraph 4 shall be revised to revise item e) Contractor shall continue an online reservation booking system with Ripe, Inc. on the destinations website. Changes to the contracting organization for the online reservation booking system shall be sent to TDC for approval. Contractor shall be reimbursed associated cost as follows:
 - a. Fiscal Years 2024-2025 (October 1, 2023 to September 30, 2025) cost shall not exceed \$40,000/Fiscal Year to be invoiced in quarterly service payments of \$10,000.
1. The remaining provisions of the Agreement dated August 19,2019 and as amended on November 17, 2020, April 21, 2021, and June 21, 2023 shall remain in full force and effect.

Amendment #4
Two Oceans Digital
Contract #: 2455

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.



West: Keith Madok, Clerk

James Stanonik
As Deputy Clerk

Board of County Commissioners
of Monroe County

[Signature]
Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Christine Lambert-Barrows
CHRISTINE LAMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
DATE 6/29/23

Cooke Communications, Florida, LLC d/b/a Two Oceans Digital

By: [Signature]

President
Thomas K. Cooke

Print Name
Date: 6/26/23

AND TWO WITNESSES

(1) [Signature]
(1) MAJ WILLIAMS

Print Name
Date: 6/26/2023

(2) [Signature]
(2) Clinton Barris

Print Name
Date: 6.26.23

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MONROE COUNTY, FLA

Amendment #4
Two Oceans Digital
Contract #: 2455

AMENDMENT (5th AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 20th day of March 2024, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, there was a 1st Amendment to Agreement entered into on November 17, 2020 to include an online booking system to the destinations website and adjust compensation to include costs associated with said service; and

WHEREAS, there was a 2nd Amendment to Agreement entered into on April 21, 2021 to amend the name of the reservation booking system from Advance Reservations Systems, Inc. to Root Reservation, LLC; and

WHEREAS, there was a 3rd Amendment to Agreement entered into on June 21, 2023 to increase the Agreement amount for cost associated with providing webcam services; and

WHEREAS, there was a 4th Amendment to Agreement entered into on September 20, 2023 to continue inclusion of an online booking system and associated cost from said services and to amend the name of the online booking system from Root Reservation, LLC to Ripe, Inc.; and

WHEREAS, this Amendment seeks to amend the Agreement to add a provision for Task Orders to be issued for special projects which shall include and outline the scope of the services, the total amount of payment for said scope of services for the work as assigned to the Contractor;

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to amend the Agreement as follows:

1. Paragraph 4. a) shall be revised to read as follows:
 - a) The Contractor shall provide all services and support as listed in the Scope of Services at no charge to the County or TDC in exchange for the exclusive right to retain all advertising revenues generated from the website. The TDC shall have the right to place sponsorship, partnership and TDC logo signature(s) on the site. The logo signature(s) will be in a mutually agreed upon format and location and will be no cost to the TDC. In addition to the compensation for the bandwidth service outlined in paragraph (b), below, the Contractor may also charge the County for special projects

Amendment #5
Two Oceans Digital
Contract #: 2455

approved by the TDC or the TDC Marketing Director, outside the Scope of Services, including but not limited to Contractor's attendance at educational or training programs in support of technology advances and enhancements, new site enhancements, technology, equipment, production, maintenance costs, webcam placements and other enhancements. These special projects shall be paid through purchase order procedures and in accordance with the Task Order, in amounts the total of which shall not exceed the budgeted fiscal year line item. Special projects assigned to the Contractor shall be documented in the form of a Task Order and processed as noted in the attached "sample", which shall include and outline the scope of services and the amount to be paid for completion of the scope of services. The Task Order shall be approved by the TDC or the BOCC depending upon the amount of Task Order.

2. The remaining provisions of the Agreement dated August 19, 2019 and as amended on November 17, 2020, April 21, 2021, June 21, 2023, and September 20, 2023, shall remain in full force and effect.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.



(SEAL)
Attest: Kevin Madok, Clerk

Kevin Madok

As Deputy Clerk

Board of County Commissioners
of Monroe County

[Signature]

Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Lambert-Barrows
CHRISTINE LAMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
DATE: 2/15/24

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By [Signature]

President

THOMAS K COOKE

Print Name

Date: 2/13/24

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2024 MAR 26 AM 11:26
CLK. CIR. CL.
MONROE COUNTY, FLA

AND TWO WITNESSES

(1) [Signature]

(1) Director of Sales and Marketing

Print Name Harrissa Hamilton

Date: 2/13/24

(2) [Signature]

(2) TDC SENIOR ACCOUNT EXECUTIVE

Print Name Elaine COOKE

Date: 2/13/24

Amendment #5
Two Oceans Digital
Contract #: 2455

(Sample)
TASK ORDER FOR SPECIAL PROJECT
FOR
(Insert Special Project title) PROJECT

In accordance with the Agreement for Professional Website and Digital Services for the Tourist Development Council (TDC) website made and entered on the **20th day of April 2020** between **Monroe County, FL** hereinafter referred to as the "County" and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Consultant" or "Contractor".

All terms and conditions of the referenced Agreement for Professional Website and Digital Services apply to the Task Order, unless the Task Order modifies an Article of the Agreement of which will be specifically referenced in this Task Order and the modification shall be precisely described.

In accordance with Paragraph 4. a) of the Agreement this Task Order sets forth the effective date, completion period, scope of work and payment details for completion of this special project.

Effective Date and Completion Period

This Task Order is effective on the ___ Day of _____, 202_ (insert date). The project shall be completed within _____ (insert days) days.

Scope of Services

The scope of services will include: Insert Scope of Services

Compensation

The Consultant shall be paid a lump sum amount of _____dollars and _____ cents (insert written amount of compensation) (\$_____(insert numerical amount of compensation) upon completion of the scope of services set forth above.

(Note: Remove from final Task order- If payment needs to be made in installments, then the scope of services shall be set forth in phases to allow for payment for completion at each phase of the scope of services)

Note: Task Orders of \$100,000 or less shall be approved by the TDC. Task Orders of \$100,000.01 or more shall be approved by the BOCC.

(If 100,000.00 or less)

Approved by the TDC at their meeting held on _____. (insert date)

If \$100,000.01 or more, include the below signature page and place on BOCC agenda for approval:

Task Order for Special Project

Page 1 of 2

IN WITNESS WHEREOF, each party caused the Task Order to be executed by its duly authorized representative.

(SEAL)
Attest: Kevin Madok, Clerk

Board of County Commissioners
of Monroe County

As Deputy Clerk

Mayor/Chairman

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By _____
President

Print Name

Date: _____

AND TWO WITNESSES

(1) _____

(2) _____

Print Name

Print Name

Date: _____

Date: _____

AMENDMENT (6th AMENDMENT) TO AGREEMENT

THIS AMENDMENT to Agreement dated this 21st day of August 2024, is entered into by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (County), on behalf of the Tourist Development Council and **Cooke Communications Florida, LLC d/b/a Two Oceans Digital** hereinafter referred to as "Contractor".

WHEREAS, there was an Agreement entered into on August 19, 2020 between the parties, for Contractor to provide professional website services which include consulting and technological advice relating to the Tourist Development Council (TDC) website; and

WHEREAS, there was a 1st Amendment to Agreement entered into on November 17, 2020 to include a online booking system to the destinations website and adjust compensation to include costs associated with said service; and

WHEREAS, there was a 2nd Amendment to Agreement entered into on April 21, 2021 to amend the name of the reservation booking system from Advance Reservations Systems, Inc. to Root Reservation, LLC; and

WHEREAS, there was a 3rd Amendment to Agreement entered into on June 21, 2023 to extend the Agreement to September 30, 2023 to adjust the cost of bandwidth services; and

WHEREAS, there was a 4th Amendment to Agreement entered into on September 20, 2023 to continue inclusion of the online booking system and associated cost for said service and to amend the name of the online booking system from Root Reservations, LLC to Ripe, Inc.; and

WHEREAS, there was a 5th Amendment to Agreement entered into on March 20, 2024 to add the provision for Task Orders to be issued for Special Projects assigned to the Contractor; and

WHEREAS it has been become necessary to Amend the Agreement to Revise Paragraph 4 of the Agreement related to Compensation and the payments for the online booking system; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to amend the Agreement as follows:

1. Paragraph 4 shall be revised to revise item e) Contractor shall continue an online reservation booking system with Ripe, Inc. on the destinations website. Changes to the contracting organization for the online reservation booking system shall be sent to TDC for approval. Contractor shall be reimbursed associated cost as follows:
 - a. Fiscal Years 2024-2025 (October 1, 2023 to September 30, 2025) cost for the online booking system and Contractor work related to the maintenance of the service shall not exceed \$40,000/Fiscal Year to be paid in monthly installments upon receipt of deliverables from Ripe for performance of the online booking system services and maintenance work provided by Contractor. Of this amount, payments shall be broken down as follows:
 - i. Reimbursement to Contractor for Service fees to Ripe, Inc. for the online booking system in an amount not to exceed \$24,000 to be invoiced on a monthly basis in the amount of \$2,000

Amendment #6
Two Ocean Digital
Contract ID: 2455

- ii. Reimbursement to Contractor for work related to the online booking system for ongoing platform optimizations, regular check in meetings, outreach to lodging affiliates, continuous integration and management of the system to ensure that the system operates smoothly and efficiently. The Contractor spends an average of 120-140 hours annually on the above tasks related to work on the online booking system at an hourly rate of \$125/hour. Payment for this work shall not exceed \$16,000/year. The Contractor shall submit a monthly invoice which shall provide the actual hours worked. The monthly payment shall be based upon the actual hours worked at the hourly rate of \$125/hour.
1. The remaining provisions of the Agreement dated August 19,2020 and as amended on November 17, 2020, April 21, 2021, June 21, 2023 and March 20, 2024 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.



(SEAL)
Attest: Kevin Madok, Clerk

Board of County Commissioners
of Monroe County

[Signature]
As Deputy Clerk

[Signature]
Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Lambert-Barakat
CHRISTINE LAMBERT-BARAKAT
ASSISTANT COUNTY ATTORNEY
DATE: 8/5/24

Cooke Communications Florida, LLC d/b/a Two Oceans Digital

By [Signature]
President

THOMAS COOKE
Print Name
Date: 8/5/24

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2024 AUG 28 PM 4: 18
CLK. CIR. CL.
MONROE COUNTY, FLA

AND TWO WITNESSES

(1) [Signature]
(1) CASEY O'BRIEN
Print Name
Date: 8/5/24

(2) [Signature]
(2) ELAINE COOKE
Print Name
Date: 08/5/24

Amendment #6
Two Ocean Digital
Contract ID: 2455

**AFFIDAVIT ATTESTING TO NONCOERCIVE CONDUCT
FOR LABOR OR SERVICES**

Entity/Vendor Name: Cooke Communications Florida
Vendor FEIN: 52-2251093
Vendor's Authorized Representative: Thomas K Cooke

(Name and Title)
Address: 701 Simonton St.
City: Key West State: FL Zip: 33040
Phone Number: 305-292-1880
Email Address: tom@keywest.com


As a nongovernmental entity executing, renewing, or extending a contract with a government entity, Vendor is required to provide an affidavit under penalty of perjury attesting that Vendor does not use coercion for labor or services in accordance with Section 787.06, Florida Statutes.

As defined in Section 787.06(2)(a), coercion means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or service are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03 to any person for the purpose of exploitation of that person.

As a person authorized to sign on behalf of Vendor, I certify under penalties of perjury that Vendor does not use coercion for labor or services in accordance with Section 787.06. Additionally, Vendor has reviewed Section 787.06, Florida Statutes, and agrees to abide by same.

Certified By: Thomas K Cooke, who is authorized to sign on behalf of the above referenced company.

Authorized Signature: 
Print Name: Thomas K Cooke
Title: President