

SECOND AMENDMENT TO AGREEMENT BETWEEN COUNTY AND FIRM

This Second Amendment to Agreement between County and Firm (hereinafter called the "Second Amendment") is made and entered by and between **MARION COUNTY**, a political subdivision of the State of Florida, 601 SE 25th Ave., Ocala, FL 34471 (hereinafter called "COUNTY") and **TEMPEST INTERACTIVE MEDIA, LLC**, 30 S 15th St., Suite 800, Philadelphia, PA 19102, FEIN #27-2717222, (hereinafter called "FIRM").

WHEREAS, for Project # 18P-021, the Parties entered into an Agreement between County and Firm approved by the Board of County Commissioners on April 3, 2018 (the "Original Contract") modified by that First Amendment entered April 16, 2019 (the "First Amendment") (collectively the Original Contract and the First Amendment are hereinafter called the "Agreement"); and

WHEREAS, the Parties wish to alter the terms of the Agreement to extend the term, modify the scope of work and compensation, and provide updates to certain sections of the Agreement;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, COUNTY and FIRM agree as follows:

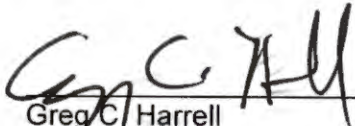
1. **Recitals.** The Parties agree that the above recitals are true and correct, and incorporate their terms and provisions herein for all purposes.
2. **Renewal.** This Second Amendment renews the Agreement for the sole available renewal term of five (5) years to conclude September 30, 2028.
3. **Scope of Work.**
 - A. **Prior Work Complete.** The Parties agree that the Work required in both the Original Contract and the First Amendment has been fully performed and has been fully paid.
 - B. **New Projects.** This Second Amendment now adds two new projects. FIRM shall complete the following two (2) projects.
 - 1) **Growth and Email Marketing.** FIRM shall complete the Growth & Email Marketing Scope of Work attached hereto as Exhibit 1. COUNTY shall compensate FIRM for said work as set forth in Exhibit 1.
 - 2) **Website Project.** FIRM shall complete the Website Project Scope or Work attached hereto as Exhibit 2. COUNTY shall compensate FIRM for said work as set forth in Exhibit 2.

4. **Updates.** This Second Amendment modifies certain provisions of the Agreement as set forth in Exhibit 3.
5. **Travel.** Notwithstanding anything to the contrary set forth in the Exhibits hereto, COUNTY shall not be obligated to pay any per diem and travel expense in excess of the standardized rates authorized under Section 112.061, Florida Statutes (2022).

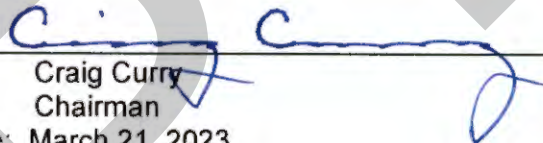
IN WITNESS WHEREOF, the Parties have entered into this Second Amendment by their duly authorized officers on the date of the last signature below.

ATTEST:

MARION COUNTY, a Political Subdivision
of the State of Florida



Greg C. Harrell
Clerk of Court
Date: March 21, 2023

BY: 

Craig Curry
Chairman
Date: March 21, 2023

Approved as to Form and
Legal Sufficiency

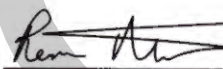
BCC APPROVED: March 21, 2023
18P-021-CA-02, Visitors & Convention Bureau
Website Development



for Matthew Minter
County Attorney


WITNESS:

TEMPEST INTERACTIVE MEDIA, LLC

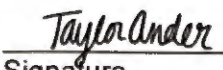


Signature
Renee Millett

Printed Name

By: 

Printed Name: Matt Kurke



Signature

Printed Name

Title: CFO
Date: March 6, 2023



SOW

EXHIBIT 1
GROWTH & EMAIL MARKETING PROJECT
(2 Pages)

Updated Fee Schedule

PRODUCTS OR SERVICES

GROWTH MARKETING	\$4,000.00
EMAIL MARKETING	\$1,000.00
<hr/>	
TOTAL ONGOING MONTHLY COSTS	\$5,000.00

PRODUCTS OR SERVICES

- a. **Fee Description.** Fee is for the marketing services described in the SOW addendum.
- b. **Payment Terms.** Client will be invoiced \$5,000.00 monthly for the marketing services outlined in this SOW addendum.



Updated Scope of Services

SCOPE OF SERVICES

GROWTH MARKETING

Editorial Calendar Development and Ongoing Management

Content Development & Search Engine Optimization (new, refreshed, or enhanced content and search engine optimization for 3-4 general website pages or blog posts monthly, or equivalent content assistance)

Monthly Report and Strategic Review

Ongoing Strategic Consultation and Collaboration with Client Team

EMAIL MARKETING

Email creation and deployment for 1 email monthly to client owned eCRM database

Periodic list cleaning and data management

Monthly report and strategic review

Ongoing strategic consultation and collaboration with client team

INCLUDED



EXHIBIT 2
WEBSITE PROJECT
(8 Pages)

Definitions

- a. **"Fees"** means the fees for the Services as set forth in the Fee Schedule.
- b. **"Design Direction Approval"** means the date where Client has approved and signed the design direction approval form.
- c. **"Information Architecture Approval"** means the date where Client has approved and signed the information architecture approval form.
- d. **"Go Live Date"** means the date where the Website Project is complete and publicly available on the World Wide Web.
- e. **"Tempest Destination Suite for Craft™"** means the website features and plugins designed and developed by Tempest for the Craft™ 3 CMS platform.

¹ Craft is a Trademark of Pixel and Tonic





Fee Schedule

WEBSITE PROJECT

CREATIVE AND DESIGN	\$22,000.00
CONTENT STRATEGY AND INFORMATION ARCHITECTURE	\$4,000.00
CONTENT MIGRATION	\$6,000.00
SEARCH ENGINE OPTIMIZATION MIGRATION AND ANALYTICS CONFIGURATION	\$4,000.00
CRAFT™ 3 CMS IMPLEMENTATION	\$6,000.00
TEMPEST DESTINATION SUITE FOR CRAFT CORE FEATURES	\$22,000.00
TEMPEST DESTINATION SUITE FOR CRAFT OPTIONAL FEATURES	\$16,000.00
CUSTOM FEATURES	\$2,000.00
CMS TRAINING AND USER MANUALS	\$1,200.00
TOTAL WEBSITE PROJECT FEE	\$83,200.00

ONGOING FEES (recurring on a yearly basis)

TEMPEST DESTINATION SUITE FOR CRAFT™ 3 ANNUAL SUBSCRIPTION FEE	\$12,000.00
TOTAL ONGOING FEES	\$12,000.00



Website Project Fees

- a. **Fee Description.** This is a one-time only, non refundable, fee for the services listed in the Scope Of Services in this SOW for the Website Project.
- b. **Payment Terms.** \$41,600.00 (first half of Website Project Fee) will be paid as a down payment upon executing this agreement. The remaining \$41,600.00 (last half of Website Project Fee) will be billed in two installments of \$20,800.00 at Design Direction Approval Milestone and at the Go Live Date milestone. Tempest reserves the right to bill ninety (90) percent of the amount due on the Go Live Date billing milestone if Go Live Date is unreasonably delayed by Client by more than 10 business days.
- c. **Creative and Design.** Tempest will design a responsive design direction for the new website project. If an onsite Creative Brief is included as part of this website project the Client shall reimburse Tempest for any Travel Related Expenses and out of pocket expenses in the creative and design of the website project pursuant to section 2.1 in the Contract Amendment.
- d. **Content Strategy and Information Architecture.** Tempest will create a content inventory of the existing website and will create a new information architecture strategy including sitemap for new Client website.
- e. **Search Engine Optimization Migration and Analytics Configuration.** Tempest will perform SEO migration activities to preserve existing keyword search engine rankings for Client website. Tempest will audit all existing analytics and tracking software to ensure all tags and monitoring scripts are migrated to the new website.
- f. **Content Migration.** Tempest will migrate website data from other sources, provided that the Client has identified in writing, to the satisfaction of Tempest, the data source or sources to be accessed and the specific data the Client wishes to migrate to the new website and Tempest has determined that the migration of the data is feasible.
- g. **Craft™ 3 CMS Implementation** Tempest will integrate the approved Design Direction into the Craft™ 3 CMS. This includes all licensing fees for third party Craft™ 3 CMS Plugins that were not developed by Tempest.
- h. **Tempest Destination Suite For Craft Core Features.** Tempest will integrate the Tempest Destination Suite for Craft™ 3 Core features listed in the Scope of Services into the new website.
- i. **Tempest Destination Suite For Craft Optional Features.** Tempest will integrate the Tempest Destination Suite for Craft™ 3 Optional features listed in the Scope of Services into the new website.
- j. **Custom Features.** Tempest will develop and integrate the custom features listed in the Scope Of Services into the new website.
- k. **CMS Training And User Manuals.** Tempest will create custom User Manuals and will provide training to the Client's staff remotely through a webinar, covering the features, use and other information regarding Website Project .
- l. **Onsite Training.** If onsite training is included as part of the website project, Tempest will provide training to the Client's staff at the Client's business location, covering the features, use and other information



regarding Website Project . For onsite training the Client will be billed the cost of travel ("Travel Expenses"). Limitation on Training - Each training session is limited to 10 staff members per trainer.

- m. **Travel Expenses.** Client shall reimburse Tempest for any Travel Related Expenses and out of pocket expenses related to this SOW pursuant to section 2.1 in the Contract Amendmen.

Tempest Destination Suite For Craft™ 3 Annual Subscription Fee

- a. **Tempest Destination for Craft™ 3 Annual Subscription Fee.** Through payment of this fee, Client will receive regular and periodic upgrades to the Tempest Destination Suite for Craft™ 3 Core and Optional features defined in the Scope Of Services during the Contract term period when such updates become available. Client will also receive major updates to Craft™ 3 CMS as well as major updates to third party Craft™ 3 CMS Plugins not developed by Tempest within a reasonable time after any such update becomes available. Tempest will not provide or perform updates of third party software not developed for Craft™ CMS or by Tempest. The Subscription fee is locked in for the Initial Term period.
 - i. **Go Live Date Agreement.** Prior to the Go Live Date, Company shall send Client the Go Live Date Agreement form stating the Go Live Date, the updated term of the subscription, agreement, and renewal terms. Client agrees that Client's authorized representative shall sign the Go Live Agreement form acknowledging and consenting to the Go Live Date, the updated term of the subscription, agreement, and renewal deadlines. A copy of the Go Live Date Agreement is attached to this SOW as Schedule B.
- b. **Payment Terms.** Tempest shall send an invoice for \$12,000.00 (Tempest Destination for Craft™ 3 Annual Subscription Fee) for the first year following the Go Live Date. Subsequent Tempest Destination for Craft™ Annual Subscription Fees will be billed in advance of the Go Live Date anniversary for each year.



Annual Website Hosting by Ocala/Marion VCB

The preferred hosting infrastructure for the Ocala/Marion County Visitors and Convention Bureau website is the Board of County Commissioner's private cloud infrastructure utilizing VMWare virtualization technologies. The provided solution must meet the following minimum requirements outlined below:

- Vendor will be granted controlled remote access to server(s) hosting the website to perform scheduled updates/upgrades.
 - **SSH/RDP access to the server with the ability to run git so the website code can synchronize automatically**
 - **SFTP access to all the application directories**
 - **Remote MySql access (either direct or via SSH tunneling)**
- Vendor will work with the MCIT staff for implementation and maintenance of the website so MCIT staff will have knowledge for general troubleshooting purposes.
- Vendor will setup a production and testing website environment.
- Updates to the website will be coordinated with Marion County Information Technology (MCIT) and acceptance testing from Ocala/Marion County VCB. The MCIT staff should be notified in advance so snapshots of the server can be made prior to updates being applied.
- Vendor will provide a detailed installation and configuration log for the Marion County virtual server during the implementation of the website. The Vendor will also provide a monthly maintenance log of all system updates to include any new releases or additional software installed after the implementation is completed.
- The MCIT staff can maintain the monthly Microsoft updates on the server using Microsoft's System Center Configuration Manager tools.
- Vendor must provide MCIT their required CPU, Memory and Storage requirements for each server.
 - **PHP 7.4 with safe mode disabled**
 - **MySQL 5.7+ or MariaDB 10.5+ or later, with the InnoDB storage engine installed**
 - **Apache 2.4 Web Server**
 - **A minimum of 512MB of memory allocated to PHP**
 - **A minimum of 5GB of free disk space (for cache and log files)**
- Vendor will provide any Antivirus/Antimalware exclusion requirements.
- Vendor will complete the required System Access Request Forms and agree to the Marion County IT Security Policies.
- Vendor agrees not to share access with any third parties without written authorization from MCIT.
- Vendor must provide a list of required firewall ports that need to be opened to MCIT.



- Vendor will provide a written list of all software and extensions for the web environment to MCIT for approval prior to installation. Upon MCIT written approval, the vendor is responsible for the installation and updating of this approved software and extension list. Vendor will perform these updates on a regular basis in accordance with IT industry best practices to safeguard the stability and security of the environment. Vendor responsibilities exclude the Windows Operating System, VMware environment, CommVault Enterprise, Microsoft Endpoint Protection, CylanceProtect and any other MCIT installed software.
- MCIT will manage all security and backup related operations.
 - Website server environment will include:
 - Windows Server 2016 (Required)
 - CommVault 11 Backup (Required)
 - Microsoft Endpoint Protection (Required)
 - CylanceProtect 2.0.x - Artificial Intelligence Endpoint Security (Required)
 - IIS version 7 or above (Preferred)

Tempest strongly suggests utilizing cloud web hosting infrastructure where possible to get the best possible experience from the Ocala/Marion VCB Website. Our preferred cloud vendor is Amazon AWS but we would also be happy to configure the appropriate linux-based cloud servers on other Cloud providers: such as Microsoft Azure or Google Cloud as required.

Alternatively, we host most of our DMO customer websites on our own AWS infrastructure, and would be happy to offer the same to Ocala/Marion VCB to get the best possible uptime and resilience.



SCOPE OF SERVICES

SCOPE OF SERVICES

CREATIVE AND DESIGN

INCLUDED

CONTENT STRATEGY AND INFORMATION ARCHITECTURE

INCLUDED

SEARCH ENGINE OPTIMIZATION MIGRATION AND ANALYTICS CONFIGURATION

INCLUDED

CONTENT MIGRATION - Migration of all content from www.ocalamarion.com to new Craft™ 3 CMS website

INCLUDED

CRAFT™ CMS IMPLEMENTATION - Responsive design integration of existing design of OR Design Direction to new Craft™ 3 CMS website , includes licensing fees for 3rd party Craft non - Tempest Craft Plugins

INCLUDED

TEMPEST DESTINATION SUITE FOR CRAFT™ CORE FEATURES IMPLEMENTATION -
Tempest Destination Suite For Craft™ Core Features and Functionality Listed Below

INCLUDED

Advanced Site Search

Call to Action Signup

Compliance Notification

Deals And Coupons

Destination Blog And Blog Authors

Email Signup Form

Event Calendar And Maps

Forms

Hero Image Gallery (Photo and Video)

Landing Pages



Local Business Member/Partner Listings And Maps

Page Level Alerts

Pagebuilder Widgets

Press & Media Listings

Saved Items And Maps

Sitemap

Social Sharing and Icons

Staff Directory

Weather Feed Integration

TEMPEST DESTINATION SUITE FOR CRAFT™ OPTIONAL FEATURES

IMPLEMENTATION - Tempest Destination Suite For Craft™ Optional Features and Functionality Listed Below

INCLUDED

IDSS API Partner Listings Integration

IDSS API Deals Integrations

IDSS API Forms Listings Integration

IDSS API Local Events Integration

Neighborhood Map

Personas

CUSTOM FEATURES - Enhanced Custom Features below not included in Tempest Destination Suite for Craft™ Core Feature Set

INCLUDED

CrowdRiff Integration

CMS TRAINING AND USER MANUALS

INCLUDED



EXHIBIT 3
UPDATES
(3 Pages)

1. DEFINITIONS

Section '1' of the Original Contract is modified to:

- a. Include Purchase Orders in the definition to Contract Documents; and,
- b. Add that should any conflict arise between the Contract Documents and this Agreement; the terms of this Agreement shall govern.

2. PUBLIC RECORDS COMPLIANCE

Section '11' of the Original Contract is modified solely to delete the email address publicrelations@marioncountyfl.org and replace it with publicrelations@marionfl.org.

3. INDEMNIFICATION

Section '12' of the Original Contract regarding Indemnification is deleted in its entirety and replace with the following:

Section 12 – Indemnification. FIRM shall indemnify and hold harmless COUNTY, its officers, employees, and agents from all suits, claims, or actions of every name and description brought against COUNTY for liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of FIRM and other persons employed or utilized by FIRM in the performance of this Agreement. This Section shall not be construed in any way to alter COUNTY's waiver of sovereign immunity or the limits established in Section 768.28, Florida Statutes. This section shall survive the termination of the Agreement.

4. INSURANCE

Section '13' of the Original Contract requiring, in part, that the company issuing the required Certificate of Insurance have an A.M. Best Company rating of at least a B+ is modified solely to delete the words "at least a B+" and replace them with "at least an A-".

5. EMPLOYEE ELIGIBILITY VERIFICATION

Section '19' of the Original Contract regarding E-Verify is deleted in its entirety and replaced with the following:

Section 19 – E-Verify pursuant to § 448.095, Fla. Stat. If FIRM is a private employer as defined in Section 448.095, Florida Statutes (2022), then FIRM agrees that as a condition of entering into this Agreement, FIRM shall register with and use the E-Verify System, provide proof of same to COUNTY upon request, and be bound by said statute.

6. FORCE MAJEURE

Section '20' of the Original Contract regarding Force Majeure is deleted in its entirety and replaced with the following:

Section 20 – Force Majeure. Neither FIRM nor COUNTY shall be considered to be in default in the performance of its obligations under this Agreement, except obligations to make payments with respect to amounts already accrued, to the extent that performance of any such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control and not a result of the fault or negligence of, the affected Party (a "Force Majeure Event"). If a Party is prevented or delayed in the performance of any such obligations by a Force Majeure Event, such Party shall immediately provide notice to the other Party of the circumstances preventing or delaying performance and the expected duration thereof. Such notice shall be confirmed in writing as soon as reasonably possible. The Party so affected by a Force Majeure Event shall endeavor, to the extent reasonable, to remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable. A Force Majeure Event shall include, but not be limited to acts of civil or military authority (including courts or regulatory agencies), acts of God, war, riot, or insurrection, inability to obtain required permits or licenses, hurricanes and severe floods, pandemics and epidemics.

7. **SCRUTINIZED COMPANIES**

Adds Section '28' to the Original Contract with the following:

Section 28 – Scrutinized Companies, pursuant to Section 287.135, F.S.

Certification as to Status.

- A. FIRM certifies that before entering into the Agreement or renewing same, FIRM and its affiliate, if any, as defined under the pertinent statutes, was not then and is not now (A) On the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; (B) Engaged in business operations Cuba or Syria; (C) On the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes; (D) Engaged in a boycott of Israel as prohibited pursuant to Section 287.135, Florida Statutes (2022); (E) On the Discriminatory Vendor List pursuant to Section 287.134, Florida Statutes (2022), (F) The Convicted Vendor List pursuant to Section 287.133, Florida Statutes (2022), or (G) The Antitrust Violator Vendor List pursuant to Section 287.137, Florida Statutes (2022).
- B. COUNTY may, entirely at its option, terminate the Agreement if any portion of the Certification provided above is found to be inaccurate.

8. **SOVEREIGN IMMUNITY.** Adds Section '29' to the Original Contract with the following:

Section 29 – Sovereign Immunity. Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything stated to the contrary in the Agreement, any obligation of COUNTY to indemnify FIRM, if provided, is

limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes. This Section shall survive the termination of the Agreement. This section shall survive the termination of the Agreement.

9. ON-GOING COMPLIANCE. Adds Section '30' to the Original Contract with the following:

Section 30 – On-Going Compliance. The Parties acknowledge that the Agreement may contain provisions prescribed by laws, statutes, and regulations that can change during the Term of the Agreement. The Parties understand and agree that the Agreement is intended to reflect and require the Parties' compliance with all laws at all times. The Parties expressly and specifically agree to perform the Agreement in full compliance with the governing laws, statutes, and regulations, as same may change from time to time.

COPY