

# County of Monroe

## The Florida Keys



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\*\* Board Certified in City, County & Local Govt. Law

### **Office of the County Attorney**

1111 12<sup>th</sup> Street, Suite 408  
Key West, FL 33040  
(305) 292-3470 Office  
(305) 292-3516 Fax

To: Kevin Madok, Monroe County Clerk of Court and Comptroller

Through: Robert B. Shillinger, Monroe County Attorney

From: Christine Limbert-Barrows, Assistant County Attorney

Date: November 7, 2023

Re: Stuart Newman, Associates, Inc.'s Agreement Scope of Services relating to The Clerk's audit recommendation to the "BOCC to take immediate action to work with the TDC to determine the next steps for addressing the seemingly the double billing of services by the TDC's Public Relations Agency of Record or clarify these services."

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This memorandum addresses the scope of services under Stuart Newman, Associates, Inc.'s (NewmanPR) Agreement for professional public relations agency services as it relates to the above referenced audit finding and specifically whether photography and videography services for which reimbursement was sought are services included in the scope of services. The County and NewmanPR entered into this Agreement on August 17, 2022, for the period of October 1, 2022, and expiring on September 30, 2025<sup>1</sup>. The Agreement may be extended for an additional (2) two-year period.

The Scope of Services in Paragraph 2 of the Agreement reads as follows:

2. Scope of Services: The Contractor will serve as the full-service public relations agency for the Monroe County TDC and County. The Contractor and the public relations programs are subject to review by the Monroe County TDC.

A. Key Personnel: This Agreement is a professional service Agreement with expectation that principal personnel performing the services are those personnel listed. Notice of any change in personnel shall be sent to the TDC for approval. The principals assigned are the following:

- 1) Andrew A. Newman, President and Account Supervisor
- 2) Buck Banks, Senior Vice President and Copy Editor/Online Media Director/Strategic Director
- 3) Carol Shaughnessy, Senior Account Executive

Contractor shall have a successor plan for the Key Personnel of President and Senior Vice President of the agency. The successor plan shall include who may take over the obligations and duties of the former TDC's Key Principal in the event of incapacitated illness, death or other circumstances that render the Key Principal unable to perform their duties and obligations under this agreement. The Contractor shall provide their successor plan to the TDC administrative office within 30 days of approval of this agreement by the County. The Contractor shall amend said successor plan, as needed, to ensure it remains current. In the event that the TDC does not approve the Key Personnel, the County may terminate the Agreement in accordance with section 18.

**ADDITIONAL MINIMUM STAFF PERSONNEL ASSIGNED:**

- 1) Account Executive
- 2) Media Manager
- 3) Account Support
- 4) Finance/Account/Clerical Support

In addition, the agency will sub-contract with Keys-based individuals to provide for an Upper Keys/Middle Keys stringer; Lower Keys/Key West stringer, and an LGBTQ+ market stringer to be funded from the public relations expense budget.

- B. The Senior Account Supervisor and/or account executive shall meet with the Monroe County TDC at all regularly scheduled meetings of the TDC and Advisory Committees, and at any other times as directed by the TDC.
- C. Contractor agrees to assign a Public Relations Senior Account Supervisor who will devote such time and effort as necessary to the account on a priority basis, including full time when required. Duties of the Senior Account Supervisor will include contact as required with the Chairperson or Vice Chairperson of the TDC, Marketing Director or other designee, interfacing with other agencies of record such as Advertising and Website provider as directed by the TDC relating to the development of an effective marketing program for the Florida Keys. Either the account supervisor, account executive or district stringer will consult with TDC Advisory Committees within the Keys.
- D. Provide staff services to manage communications to develop awareness, promote favorable image and goodwill for the Florida Keys tourism product.

- E. Provide the development of favorable national and international publicity for the Florida Keys tourism product.
- F. Provide the establishment and maintenance of contacts with print, internet and broadcast media including bloggers and social media influencers.
- G. Provide the preparation of digital media kits and an online newsroom.
- H. Coordinate development and distribution of news materials for trade and consumer media.
- I. Develop and coordinate media familiarization tours for the Florida Keys, and assist media including travel bloggers and social media influencers as needed during individual visits. In addition, develop and coordinate itineraries for broadcast crews and provide onsite support as needed.
- J. Work with media personnel to gather information for their reports.
- K. Develop the public relations section of the TDC's annual marketing plan establishing objectives and measurable goals while interfacing with programs produced by the advertising agency and sales department.
- L. Provide representation of TDC at selected trade shows, sales/media missions, FAM tours, media workshops, and journalist conferences.
- M. Provide at least one representative to attend TDC meetings; District Advisory Committee (five individual DACs); cultural, diving, fishing and Key West Business Guild meetings.
- N. Provide periodic written and/or oral reports on public relations activities to the TDC and District Advisory Committees.
- O. Provide the establishment and management of Agreements with sub-agencies for international, specialty or other public relation markets and/or programs.
- P. Prepare for and respond to emergency crisis situations that affect tourism and provide a crisis communications program when needed, working in conjunction with Keys Emergency Management and other local, state and federal entities as appropriate.
- Q. Coordinate crisis communications training for selected Keys tourism officials.
- R. Interface with County officials and other local municipalities to consult with and provide communications assistance to deal with issues that relate

to tourism.

- S. Provide media training for TDC staff and/or TDC Board members as deemed appropriate.
- T. Provide content support for TDC web site and social media channels.
- U. Provide publicity before, during, and after selected special events.
- V. Provide assistance to the Florida Keys Film Commission.
- W. Maintain appropriate records of print clippings, internet, and broadcast coverage.
- X. Provide development and maintenance of video and still image libraries.
- Y. Provide a measurability process to evaluate the public relations programs.
- Z. Provide implementation of such services as outlined within the objectives, goals, and strategies of the annual marketing plan.
- AA. Perform such other public relations activities as required by the TDC.

The scope of services as set forth above does not include photography or videography services or production.

The “annual agency administration fee” is compensation for “the performance of all public relations staff services outlined within the Scope of Services as defined by [the] Agreement and the approved Marketing Plan”<sup>iii</sup>.

Paragraph 3. Compensation of the Agreement provides that “compensation shall be paid for fees and reimbursable expenses, subject to availability of Tourist Development Tax Funds.” The Agreement then provides that the “Agency Fee” is for “the performance of all public relates staffed services outlined within the Scope of Services as defined by this Agreement” and “Reimbursable Expenses” is “for all actual expenses incurred for contracted staff, media materials, postage, shipping, clipping services, special event support, research, website maintenance, promotional items, seminars or show registrations, sub-agency Agreements, entertainment of media, broadcast support, photography, broadcast production, other video and audio projects, travel expenses and all other projects or production materials that are necessary for the fulfillment of this Agreement” and “zoom and video conferencing”.

“Broadcast support, photography, broadcast production, other video and audio projects” is listed as a reimbursable expense under the agreement<sup>iii</sup>. Reimbursable Expenses under the agreement are outside of the Scope of Services and are in addition to the annual agency administration fee/agency fee.

Based upon the contractual provision, it is my opinion that the invoices for photography or videography services and production are not services that are included under the Agreement’s Scope of Services and therefore are not services included in the annual agency administration fee or “Agency Fee”, but rather they are specifically listed as “reimbursable expenses”. Thus, in my view, no double billing exists for these services under the provisions of the contract as set forth in detail above.

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<sup>i</sup> The Agreement between the County and NewmanPR for the period of October 1, 2017, to September 30, 2020, which was extended to September 30, 2022, has substantially the same Scope of Services as the current Agreement for Public Relation Services.

<sup>ii</sup> 3.Compensation: Compensation shall be paid for fees and reimbursement expenses, subject to availability of Tourist Development Tax Funds. Monroe County’s performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Monroe County Board of County Commissioners.

- A. Agency Fees: The Contractor shall be compensated for the performance of all public relations staffed services outlined within the Scope of Services as defined by this Agreement and the approved fiscal year Marketing Plan for an annual agency administration fee of \$733,688. The Contractor shall submit to the TDC monthly billings in arrears for one-twelfth (1/12) of the annual agency fee. The Contractor shall have all fees placed on invoices that have the proper approved purchase order account number and follow County requirements for payment. Following the third year, the County has an option to extend this Agreement for an additional two (2) year period under the same conditions subject to negotiation of monetary terms (*under Agreement negotiations this may be subject to monetary terms, upon 90 days prior written notice of the Agreement extension to Contractor*).
  
- B. <sup>iii</sup> Reimbursement Expenses: All reimbursable expenditures paid by the County shall be subject to the annual public relations expense budget approved by the TDC and County. The Firm shall have all expenses placed on invoices that have the proper approved purchase order account number, have been paid for by the agency to the vendor before being submitted for reimbursement with product or services delivered, and follow other County requirements for payment. The Contractor will be reimbursed at cost for all actual expenses incurred for contracted staff, media materials, postage, shipping, clipping services, special event support, research, website maintenance, promotional items, seminars or show registrations, sub-agency Agreements, entertainment of media, broadcast support, photography, broadcast production, other video and audio projects, travel expenses and all other projects or production materials that are necessary for the fulfillment of this Agreement and have been approved in advance by the TDC Fiscal Year Marketing Plan or budget according to Monroe County Procurement Policies. The Contractor’s telecommunication services are included in their professional fees with the exception of Zoom and other virtual conference programs.