

## TOURISM PROMOTION AGREEMENT

### Clearwater Jazz Holiday

**THIS AGREEMENT** is made and entered into as of the 27 day of October, 2016, ("Effective Date"), by and between Pinellas County, a political subdivision of the State of Florida ("County"), for and on behalf of Visit St. Petersburg/Clearwater ("VSPC"), and Clearwater Jazz Holiday Foundation, Inc., a Florida nonprofit corporation ("Event Organizer") (collectively, the "Parties," or individually, a "Party").

### WITNESSETH:

**WHEREAS**, in accordance with Section 118-32, Pinellas County Code, and Section 125.0104(5)(a)2., Florida Statutes, VSPC is responsible for promoting tourism in Pinellas County, including funding activities, services, and events that have as one of its main purposes the attraction of tourists; and

**WHEREAS**, the County, on behalf of VSPC, agrees to provide Tourist Development Tax funding for the 2016 Clearwater Jazz Holiday to be held on October 13 - 16, 2016 ("Event"), organized and operated by the Event Organizer as described in the promotion program as defined herein, to promote Pinellas County tourism.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants herein contained, the Parties agree as follows:

1. The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect through April 16, 2017, unless otherwise terminated as provided herein.

2. The County agrees to pay to the Event Organizer the total sum of One Hundred Thousand Dollars (\$100,000.00) ("Sponsorship Fee") as an Event sponsor, to promote and market Pinellas County tourism in connection with the Event as defined in the promotion program described in Exhibit A attached hereto, and made a part hereof ("Promotion Program"). The County shall pay the Sponsorship Fee in accordance with the following:

A. The Sponsorship Fee shall be due and payable within forty-five (45) calendar days of the completion of the Event, upon Event Organizer submitting an invoice with all documentation required in Section 2G at the address set out in Section 4.

B. Payment shall be made by the County to the Event Organizer in accordance with §218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act."

C. In the event the Event Organizer: (i) cancels the Event or does not conduct the Event; or (ii) the Event Organizer is not in compliance with the terms and conditions of the Agreement; or (iii) the Event Organizer is dissolved, or ceases or suspends its operations for any reason, then any sums not paid or disbursed to the Event Organizer are hereby deobligated, and shall not be paid unless this Agreement is amended in writing by mutual agreement of the Parties

expressly authorizing payment of the Sponsorship Fee on the revised terms as provided in said amendment.

D. The Event Organizer shall repay the County for all illegal or unlawful expenditures of the Sponsorship Fee, or for expenditures made by the Event Organizer in breach of any covenant, term or condition of this Agreement, including illegal, unlawful, and/or unauthorized expenditures discovered after the expiration of the term.

E. The Event Organizer shall provide immediate written notice to VSPC if the Event is cancelled, rescheduled, or the scope of the Event is substantially changed from the Event as described in the Event Organizer's funding request.

F. The Event Organizer may amend or revise the Promotion Program only with the prior written consent from the Director of VSPC, or his designee.

G. The Event Organizer shall provide a written final report to VSPC within forty-five (45) calendar days of the completion of the Event, which at a minimum shall include documentation establishing that the Event Organizer provided the promotional benefits described in the Promotion Program, shall specify attendance at the Event and room nights generated by the Event in Pinellas County, the methodology used for computing the room nights which methodology must be documentable, supportable, and calculated in compliance with tourism market and research analysis industry standards, and such other information as required by VSPC. Failure to submit the report as required shall disqualify the Event Organizer from being eligible for funding in future years.

3. A. The Event Organizer shall organize, manage, operate and/or conduct the programs, activities, and events, and be solely responsible for all costs and expenses related to the Event.

B. The Event Organizer represents and warrants that it has substantial experience and skill in the business of organizing and promoting the Event and agrees to use its best efforts to organize, manage, operate and conduct the Event in a professional manner, calculated to create a quality, pleasant, enjoyable experience for all participants.

4. Each Party hereby designates the person set forth below as its respective contract persons. The person designated herein shall be each Party's prime contact person for coordinating Promotion Program related activities. Notices or reports shall be sent to the attention of each Party's contact person by U.S. mail, postage prepaid, or email to the parties' addresses as set forth below:

For the County:

Tim Ramsberger, Deputy Director  
Visit St. Petersburg/Clearwater  
8200 Bryan Dairy Rd. Ste 200  
Largo, FL 33777  
Tim@VisitSPC.com

For the Event Organizer:

Gary Hallas  
Clearwater Jazz Holiday Foundation, Inc.  
P.O. Box 7278  
Clearwater, FL 33758  
Gary@clearwaterjazz.com

Any changes to the above representatives or addresses must be provided to the other Party in writing.

5. A. The County reserves the right to terminate this Agreement, without cause, by giving thirty (30) days advance written notice to the Event Organizer of its election to terminate pursuant to this provision.

B. The failure of either Party to comply with any material provisions of this Agreement shall be considered a breach thereof, and shall be cause for immediate termination of the Agreement upon written notice to the defaulting Party.

C. The funds to be used for this Agreement are subject to periodic appropriation of funds by the County. Further, obligations under this Agreement are contingent upon the availability of funds. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay for any promotion benefits provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify the Event Organizer in writing of such failure of appropriation, and upon such notice, this Agreement shall terminate without penalty to the County.

6. The Event Organizer shall, upon request, permit the County to examine or audit all records and documents related to the Promotion Program provided for in this Agreement. The Event Organizer shall maintain all such records and documents for at least three (3) years following termination of the Agreement.

7. A. Neither the County nor the Event Organizer shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the County nor the Event Organizer shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The County shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by the Event Organizer of its business, whether caused by the Event Organizer's negligence or willful action or failure to act.

B. The County will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon the Event Organizer or the Event Organizer's assets, or upon the County in connection with services performed or business conducted by the Event Organizer. Payment of all such taxes and liabilities shall be the responsibility of the Event Organizer.

C. The Event Organizer shall indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of the Event Organizer; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent

or copyright infringement or litigation based thereon; except only such injury or damage as shall have been occasioned by the sole negligence of the County.

D. The Event Organizer shall secure and maintain the insurance coverages set out in Exhibit B attached hereto for the Event.

8. A. The Event Organizer shall comply with all applicable federal, state and local laws, rules, regulations and guidelines, relative to performance under this Agreement.

B. Neither Party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Party.

C. Nothing in this Agreement shall be construed to benefit any person or entity not a Party to this Agreement.

D. In carrying out this Agreement, the Event Organizer shall not exclude from participation in, deny benefits to, or otherwise discriminate against, any person because of race, color, religion, sex, national origin, family status or handicap.

E. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements, communications, or representations, whether oral or written, with respect thereto.

F. No alteration, change, modification, amendment or waiver to or of this Agreement shall be valid or binding unless in writing and signed by both parties hereto.

G. Nothing in this Agreement will be construed to create, or be implied to create, any relationship between the County and any contractor, subcontractor or supplier of the Event Organizer, and at all times the Event Organizer is and shall remain an independent contractor and not an agent of the County or VSPC.

H. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

9. The Event Organizer acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County Public Records Policies. The Event Organizer agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Event Organizer agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes and County policy for locating and producing public records during the term of this Agreement.

10. By signing this Agreement as provided below, Signer attests to all of the following:


A. Signer has the legal authority to enter into the Agreement on behalf of the Applicant organization;

B. Signer is not deriving any direct or indirect benefit or bonus, monetary or otherwise, from the Applicant organization or any other party, including signer's employer, as a result of this grant award; and

C. Signer is not aware of any other third party deriving any direct or indirect benefit or bonus, monetary or otherwise, from the Applicant organization or any other party as a result of this grant award.

**IN WITNESS WHEREOF**, the parties herein have executed this Agreement on the day and year first above written.

**PINELLAS COUNTY, FLORIDA**  
by and through its County Administrator

  
The signature is in blue ink and includes a circular official seal of Pinellas County, Florida, which features a sun and the text "COUNTY OF PINELLAS FLORIDA BOARD OF COUNTY COMMISSIONERS".

By: \_\_\_\_\_  
Mark S. Woodard


**CLEARWATER JAZZ HOLIDAY  
FOUNDATION, INC.**

 CEO  
The signature is in blue ink and is followed by the text "CEO".

By: \_\_\_\_\_  
Steve Weinberger, CEO

[Corporate Seal]

APPROVED AS TO FORM

By:   
\_\_\_\_\_  
Office of the County Attorney

**Pinellas County TDC Elite Event Funding FY 16-17**  
**Benefits & Deliverables**  
**Exhibit A**

**Clearwater Jazz Holiday**  
**October 13-16, 2016**  
**Funding Amount: \$100,000**

VSPC will receive, in exchange for its financial support, the following benefits at no additional charge, except as noted:

- I. Official Designation Status: N/A
- II. VSPC logo inclusion on all event and marketing collateral including, but not limited to the following:
  - a. Full-page ads in the following publications:
    - i. May & September issues of DownBeat Magazine
    - ii. May & September issues of Jazz Times Magazine
    - iii. July & September issues with Florida Travel & Lifestyle Magazine
    - iv. July & September issues with Southern Living Magazine
    - v. September issue of AAA Going South Magazine
    - vi. September issue of Tampa Bay Magazine
    - vii. May New Orleans map pullout
  - b. On-site on sponsor boards and stage sound tower with size and placement no less prominent than any other sponsor at the same sponsorship level
  - c. Targeted event web banners with hyperlinks to the VSPC website home page
  - d. Web banner and sponsored event portal with Tampa Bay Times – Events To Do
  - e. 120,000 event brochures, which are distributed to over 1,200 locations through Florida Suncoast Tourism Promotions along with insertions in Florida Welcome Centers. Brochures are also distributed through partners and sponsor companies (i.e. Mercedes-Benz, Target, Costco, etc)
  - f. Static and digital billboard advertising for the Event in the following markets: Hillsborough and Pinellas
  - g. Print newspaper advertising June through October to include Tampa Bay Times, TBT, and Rag Newspapers
- III. Digital/Social Media Benefits:
  - a. VSPC logo prominently placed on official event webpage to include hyperlink to VSPC home page
  - b. VSPC tagged in Social Media Campaign utilizing Facebook, Instagram, Twitter, You Tube and any other social media channels to promote and inform attendees of the Event along with partner social media outlets (i.e. Tampa Bay Times, VSPC, etc.)

- IV. Print Advertising (ads provided by VSPC):
  - a. VSPC ½ page color ad in special 28 page insert supplement in the Tampa Bay Times
  
- V. Broadcast Benefits (Radio/TV spots to include VSPC mention):
  - a. Approximately 2,000 PSA TV spots on Bright House Networks and 200 on CBS 10News
  - b. Radio station Giveaways leading up to event to include VSPC mention
  
- VI. Event Onsite Benefits:
  - a. VSPC will have the opportunity to welcome attendees during festival as mutually determined during festival
  - b. Six (6) to eight (8) thirty second VSPC commercials per day to be shown during the event
  - c. 10' x 10' booth space for VSPC to showcase the destination
  - d. Space to exhibit VSPC branded vehicle at a mutually agreed upon location
  
- VII. Tickets and Credentials for tourism industry officials and VSPC invited clients and guests
  - a. Twenty (20) VIP credentials per day
  - b. Twelve (12) Bistro credentials per day
  - c. Forty (40) General admission tickets per day
  - d. Twelve (12) Parking passes per day



## Exhibit B – INSURANCE REQUIREMENTS

**Notice:** The Event Organizer must provide a certificate of insurance and endorsement in accordance with the insurance ten requirements listed below (Section C) prior to recommendation for award. Failure to provide the required insurance within a (10) day period following the determination or recommendation of lowest responsive, responsible Event Organizer may result in the County to vacate the original determination or recommendation and proceed with recommendation to the second lowest, responsive, responsible Event Organizer.

- a) Bid submittals should include, the Event Organizer's current Certificate(s) of Insurance in accordance with the insurance requirements listed below. If Event Organizer does not currently meet insurance requirements, Event Organizer shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place within 10 days after award recommendation prior to commencement of work.
- b) Within 10 days of **contract award** and prior to commencement of work, Event Organizer shall email certificate that is compliant with the insurance requirements to [CertsOnly-Portland@ebix.com](mailto:CertsOnly-Portland@ebix.com). If certificate received with bid was a compliant certificate no further action may be necessary. It is imperative that Event Organizer include the unique identifier, which will be supplied by the County's Purchasing Department. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **A copy of the endorsement(s) referenced in paragraph d) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph.**
- c) No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the Bid and/or contract period.
- d) If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished by the Event Organizer to the County at least thirty (30) days prior to the expiration date.
  - (1) Event Organizer shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Event Organizer from its insurer. Notice shall be given by certified mail to: Pinellas County, c/o Ebix BPO, PO Box 257, Portland, MI, 48875-0257; be sure to include your organization's unique identifier, which will be provided upon notice of award. Nothing contained herein shall absolve Event Organizer of this requirement to provide notice.
  - (2) Should the Event Organizer, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement the County, at its sole discretion, may purchase such coverages necessary for the protection of the County and charge the Event Organizer for such purchase or offset the cost against amounts due to bidder for services completed. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance shall in no way be construed to be a waiver of any of its rights under the Agreement.
- e) The County reserves the right, but not the duty, to review and request a copy of the Event Organizer's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds \$50,000.



## Exhibit B – INSURANCE REQUIREMENTS

- f) If subcontracting is allowed under this Bid, the Prime Event Organizer shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; *but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.*
- (1) All subcontracts between Event Organizer and its subcontractors shall be in writing and may be subject to the County's prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Bidder to the same extent Event Organizer is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor; (2) provide for the assignment of the subcontracts from Event Organizer to the County at the election of Owner upon termination of the Contract; (3) provide that any Party listed in (g)(3) below will be an additional indemnified party of the subcontract (4) provide that any Party listed in (g)(3) below will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of any Party listed in (h)(3) below and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Event Organizer shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

The Event Organizer shall obtain and maintain at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Event Organizer shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. All insurance policies shall be from companies Licensed to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- g) Each insurance policy and/or certificate shall include the following terms and/or conditions:

- (1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County. If Event Organizer is a Joint Venture per Section A. titled Joint Venture of this Bid, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C with regard to limits, terms and conditions, including completed operations coverage.
- (2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Contractor.
- (3) All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Event Organizer and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County a Political Subdivision of the state of Florida as an Additional Insured. Indicating coverage on certificate boxes is not adequate. A copy of the actual endorsement or policy declaration page indicating such coverage must be submitted along with Certificate.
- (4) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
- (5) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.
- (6) All policies shall be written on a primary, non-contributory basis.
- (7) Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Event Organizer is only using employees named on such list to perform work for the County. Should employees not named be utilized by Bidder, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the Bidder to be in default and take such other protective measures as necessary.

**Exhibit B – INSURANCE REQUIREMENTS**

- (8) Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County from both the Event organizer and subcontractor(s). Indicating such coverage on certificate is not adequate. A copy of the actual endorsement or policy declaration page indicating such coverage must be submitted along with Certificate.
- (9) For acceptance of any coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of required limits per occurrence by line of coverage
- h) The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

(1) Workers' Compensation Insurance

Limit Florida Statutory

Employers' Liability Limits

Per Employee	\$500,000
Per Employee Disease	\$500,000
Policy Limit Disease	\$500,000

- (2) Commercial General Liability Insurance including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits

Combined Single Limit Per Occurrence	\$1,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal Injury and Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000

- (3) Excess or Umbrella Liability Insurance excess of the primary coverage required, in paragraphs (1), (2), and (3) above:

Limits

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

- (4) Property Insurance Event Organizer will be responsible for all damage to its own property, equipment and/or materials.