

**REQUEST FOR PROPOSALS (RFP)  
TO SERVE AS AUDITOR FOR  
THE CHILDREN'S SERVICES COUNCIL OF MARTIN COUNTY**

The Children's Services Council of Martin County (COUNCIL) is requesting independent public accountants to submit sealed bids to serve as the auditor for the COUNCIL.

**INTRODUCTION:**

**Organization:** Pursuant to Florida Statutes Chapter 125.901, the Children's Services Council of Martin County was established under County Ordinance #348 on June 28, 1988. The purpose of the Children's Services Council is to plan, coordinate, fund, and evaluate programs and to address public policy issues relating to children in Martin County. The COUNCIL'S authority to levy ad valorem taxes was approved by a referendum of the electors of Martin County on November 8, 1988. To implement its mandate CSCMC is empowered to assess an ad valorem tax up to one-half mil. (\$.50 per \$1,000) of non-exempt property valuation.

The COUNCIL assessed a millage rate of .3523 for fiscal year ending September 30, 2009. Its operating budget for that period was \$11,164,037 of which \$1,521,602 is for administrative activities and collection fees and \$9,642,435 is for Program Allocations. The COUNCIL utilizes Microsoft Dynamics Great Plains accounting system. The COUNCIL operates on a fiscal year beginning October 1 and ending September 30.

The COUNCIL is governed by a ten-member body which consists of the Superintendent of Schools, a local School Board member, the Circuit Administrator from Circuit XIX from the Florida Department of Children and Families, one member of the Board of County Commissioners, the Judge assigned to juvenile cases, and five members appointed by the Governor for four year terms.

The current staff of the Children's Services Council is comprised of the following positions: Executive Director, Director of Policy and Operations, Director of Finance and Human Resources, Manager of Planning and Evaluation, Manager of Finance, (2) Contract Specialist, Executive Assistant, Administrative Assistant II and Administrative Assistant I.

**Legislative Audit Mandates:** The following statutes and ordinances address audit requirements for the Children's Services Council of Martin County:

- Florida Statute Chapter 125.901 (2) (e), authorizing the establishment of the Children's Services Councils, requires the COUNCIL to have an annual independent audit conducted
- Florida Statute Chapter 218.39 (1) (c) requires the COUNCIL to have an annual financial audit
- Florida Statute Chapter 218.391 prescribes auditor selection procedures as amended by Chapter 2005-32, Laws of Florida, effective July 1, 2005

**Proposal Submission and Deadline:**

All proposals must be submitted in a sealed envelope bearing on the outside: the name of the Proposer, the Proposer's address, the words "Children's Services Council of Martin County Auditor Proposal"

Sealed proposals must be delivered to the COUNCIL at the following address:

Children's Services Council of Martin County  
2030 S.E. Ocean Blvd.  
Stuart, Florida 34996

**Proposals will be accepted until 12 noon on Friday, July 24, 2009**

**Twelve** (12) copies and one original of the proposal must be submitted.

## **CONSIDERATIONS:**

**Rights of the COUNCIL:** The COUNCIL shall be the sole judge of its own best interests, the proposal, and the negotiated agreement. The COUNCIL'S decision will be final. The COUNCIL reserves the right to investigate the reputations, integrity, skill and quality of performance in similar situations of each Proposer before making the award. Award of a contract, if any, will be based on both objective and subjective comparison of proposals and Proposers. The COUNCIL reserves the right to amend the Exhibit "A" agreement as part of the negotiation process.

**Verification of Proposer Information:** The Proposer understands that the COUNCIL, in making the award, will rely upon information contained in the proposal and that such information is warranted by the Proposer to be true. The Proposer agrees to furnish such additional information, prior to the acceptance of any proposal, relating to the qualifications of the Proposer as may be required by the COUNCIL. The Proposer understands that the COUNCIL has the right to verify the information submitted, and to seek additional information relating to the Proposer's qualifications. The discovery of any misstatement, which, in the sole opinion of the COUNCIL, materially affects the Proposer's qualifications to perform, shall cause the COUNCIL to reject the Proposal, and if after the award, to cancel the contract.

**SCOPE OF SERVICES:** The services to be performed by the Proposer selected as auditor for the Children's Services Council of Martin County are as set forth in the proposed AGREEMENT attached hereto and incorporated by reference as Exhibit "A". The scope of services addressed in the AGREEMENT includes the audit schedule, the audit scope, additional services, changes in scope of work, responsibility of the auditor, ownership of documents, conflict of interest, and assignment. While the AGREEMENT also addresses compensation and terms of payment, the procedure for selection of the auditor will be to first select in order of preference the firms deemed to be the most highly qualified and thereafter request, accept, and consider proposals for the compensation to be paid. Selection procedures are addressed in detail in the section entitled **SELECTION PROCEDURES**. Exhibit "A" is a sample agreement and is only provided as the initial basis for negotiations with the selected respondent. The COUNCIL reserves the right to amend the agreement as part of the negotiation process.

**PROPOSAL CONTENT AND FORMAT:** The submitted proposal should address the requirements set forth in this RFP and Exhibit "A" AGREEMENT attached hereto. The Children's Services Council of Martin County shall not be responsible for any expenses incurred in the preparation of a proposal. The proposal should be organized as follows:

1. **Title Page**-Showing the proposer's name, local address, telephone number, name of contact person, and date.
2. **Table of Contents**-Identify material included by subject and page number.
3. **Letter of Transmittal**-Briefly state:
  - a. The proposer's understanding of the work to be performed.
  - b. The work plan and procedures, including time estimates of each significant segment designed to meet the scope of the engagement.
  - c. The names of the persons who will be authorized to make representations for the firm, their titles, addresses and phone numbers.
4. **Proposer Profile**-Provide information regarding:
  - a. The proposer's organizational structure and size, including whether the firm is local, regional or national.
  - b. The location of the office from which the work is to be performed and the number of partners, managers, supervisors, and other professional staff employed at the office.
  - c. The proposer's experience in performing audits and reviews of governmental entities.
  - d. The proposer's policy on notification of changes in key personnel.
  - e. The proposer's range of activities performed by the local office, such as auditing, accounting, tax, or management services.
  - f. The proposer's experience in the presentation of audited financial statements for local governmental entities including the name of the organization.

- g. The level of technology of the firm; specify whether laptops are utilized at the audit site and specify the type of software used.
- h. The results of the proposer's latest peer review.
- i. Whether the firm is currently involved in any litigation.
- 5. **Qualifications**-The proposer is requested to provide:
  - a. A listing of personnel that will actively participate in the engagement on a daily basis, including the person's name, classification and CPA attainment.
  - b. The continuing professional education of above-listed personnel in accounting and auditing during the past two years.
  - c. The names and background information of personnel with significant experience who would be available for consultation to assist in resolving engagement questions and technical accounting issues.
- 6. **Compensation**-As noted in SCOPE OF SERVICES above, the procedure for selection of the auditor will be to first select in order of preference the firms deemed to be the most highly qualified and thereafter request, accept, and consider proposals for the compensation to be paid.
- 7. **Other Information**-The proposer is requested to list at least three references, names, addresses and telephone numbers of contact persons for entities with whom the bidder has performed or provided similar work, service or product. The proposer may include any additional information that is considered relevant to the bid.
- 8. **Drug-Free Workplace Confirmation**-Please complete the attached Drug-Free Workplace Confirmation.

**EVALUATION OF PROPOSALS:**

**Selection Procedure:** An Auditor Selection Committee established by the COUNCIL shall evaluate the written proposals submitted by the Proposers regarding their qualifications and ability to furnish the required service. The Committee shall select, in order of preference, Proposers deemed to be the most highly qualified to perform the required services after considering: the ability of professional personnel; past performance and experience; willingness to meet time requirements; location; and recent, current, and projected workloads of the proposers. The Committee shall rank and recommend the top three proposers to the COUNCIL. The COUNCIL shall by motion vote on the committee recommendations. The COUNCIL (or its designated Negotiator) shall select one of the firms recommended by the audit committee and negotiate a contract as indicated below.

**Negotiations:** The COUNCIL (or its designated Negotiator) will first negotiate a contract with the proposer ranked first with the proposer giving a basis of its fee for that engagement. If the COUNCIL or Negotiator is unable to negotiate a satisfactory contract with that proposer, negotiations with that proposer shall be formally terminated, and the COUNCIL or Negotiator shall then undertake negotiations with the second-ranked proposer. Failing accord with the second-ranked proposer, negotiations shall then be terminated with that proposer and undertaken with the third-ranked proposer. Negotiations with the other ranked proposers shall be undertaken in the same manner. The COUNCIL or Negotiator, in negotiating with proposers, may reopen formal negotiations with any one of the three top-ranked proposers, but it may not negotiate with more than one proposer at a time. The COUNCIL or Negotiator shall also negotiate on the scope and quality of services. In making such determination, the COUNCIL or Negotiator shall conduct an analysis of the cost of the professional services required in addition to considering their scope and complexity. If the COUNCIL or Negotiator is unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the COUNCIL or Negotiator shall continue negotiations in the manner described above until an agreement is reached.

**RIGHTS OF COUNCIL:** The COUNCIL, in its sole discretion, also reserves the right to waive all technicalities or irregularities, to reject any or all proposals or any part of a proposal, to cancel this RFP or any part of this RFP and to re-solicit this RFP or any part of this RFP.

**BACKGROUND DOCUMENTS:**

**Prior Audit:** The audit performed for the fiscal year ending September 30, 2008 is enclosed.

**Florida Statutes:** The referenced Florida Statutes are accessible on line at <http://www.flsenate.gov/Statutes/>

**Drug-Free Workplace Confirmation:** Please complete and include the Drug-Free Workplace Confirmation as part of your proposal.

**Contact at Children's Services Council:** Questions regarding this proposal may be addressed to:

Genevieve Guido  
Director of Finance and Human Resources  
772.288-5758

## **EXHIBIT "A" AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_ 2009, is by and between the CHILDREN'S SERVICES COUNCIL OF MARTIN COUNTY, an independent special taxing district of the State of Florida hereinafter referred to as the COUNCIL, whose address is 2030 SE OCEAN BLVD., Stuart, Florida 34996, and \_\_\_\_\_ hereinafter called the AUDITOR, whose address is \_\_\_\_\_.

**WHEREAS:** In consideration of the mutual terms and conditions, promises, covenants, and payment hereinafter set forth, COUNCIL and AUDITOR agree as follows:

**I. AUDIT SCHEDULE**

- The AUDITOR shall conduct an examination of the records, accounts and procedures of the COUNCIL for each of the fiscal years ending September 30, 2009, 2010, 2011. The audit engagement for each fiscal year shall be in place on or before October 1, prior to the end of the fiscal year and the audit shall be submitted no later than March 31, after the end of the fiscal year. The AUDITOR shall deliver up to thirty (30) copies of the final audit report to the COUNCIL no later than March 31, after the end of the fiscal year. If additional copies are requested by the COUNCIL, the AUDITOR will provide the additional copies at their cost.
- Upon the mutual consent of the COUNCIL and the AUDITOR, this contract may be renewed annually after the initial three-year term. In the event the contract is renewed, the compensation for each additional year will be negotiated at the time of renewal.

**II. SCOPE OF AUDIT**

- The AUDITOR shall examine the COUNCIL'S financial statements, for the audit period, in order to express an opinion on the fairness with which they present the financial position, results of operations, and changes in fund balances of the COUNCIL in accordance with Generally Accepted Accounting Principles (GAAP), and an examination of financial transactions to determine if the transactions were made in accordance with all applicable legal and regulatory requirements, including Federal and State laws and regulations.
- The AUDITOR shall review the financial statement presentation in accordance with the financial reporting model described in GASB Statement No. 34. The audited financial statements shall be GASB 34 compliant.
- The audit shall be conducted in accordance with U.S. Generally Accepted Auditing Standards (GAAS); the requirements outlined by Governmental Accounting Standards Board (GASB); the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; the provisions of OMB Circular A-133; and the Rules of the Auditor General Chapter 10.550, and will include tests of accounting records, a determination of major program(s) in accordance with Circular A-133.
- The AUDITOR shall express an opinion on the general purpose financial statements of the COUNCIL. If unable to express an unqualified opinion, the AUDITOR shall state the reason for qualification or disclaimer of opinion.

The audit report for the COUNCIL will include the following:

- Report on internal control
- Report on compliance
- Report on internal control (accounting and administrative) over Federal financial assistance programs
- Report on supplementary schedule of Federal and State financial assistance
- Management Letter

The audit report for the COUNCIL will consist of a scope and opinion letter and the general purpose financial statements.

The management letter for the COUNCIL, which among other matters shall make special mention of the following material items where applicable:

- Whether irregularities reported in preceding audit(s) have been corrected
- Whether recommendations made in preceding audit(s) have been followed
- Recommendations to improve the COUNCIL'S present accounting procedures and internal control

Any violation of the laws, rules and regulations discovered within the scope of the audit:

- Any illegal expenditures discovered within the scope of the financial audit
- Any improper or inadequate accounting procedures
- All failure to properly record financial transactions discovered within the scope of the audit
- All other inaccuracies, irregularities, shortages and defalcations discovered by the auditor
- Whether the financial report filed with the Department of Banking and Finance pursuant to Chapter 218.32, Florida Statutes, is in agreement with the annual audit report for the said period and, if not, specify any significant differences
- Whether the fixed asset records of the COUNCIL comply with the provisions of Chapter 10.400, Rules of the Auditor General
- Whether deteriorating financial conditions exist that may cause a condition described in Florida Statute Chapter 218.503 to occur if actions are not taken to address such conditions
- Whether the COUNCIL is in compliance regarding the Investment of Public funds according to Florida Statute Chapter 218.415

The AUDITOR will assist in the preparation of the Annual Financial Report filed with the Department of Banking and Finance.

The financial statements shall be presented in accordance with Generally Accepted Accounting Principles (GAAP) as prescribed by the Governmental Accounting Standards Board. For examination of grant funds and/or programs, the AUDITOR shall, in addition, comply with the procedures set forth in the Single Audit Act Amendments of 1996.

- The AUDITOR shall observe the adequacy of internal control. If weaknesses are noted, appropriate recommendations shall be first reviewed with the Executive Director prior to inclusion in the management letter.
- The engagement cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist. However, the AUDITOR will inform the COUNCIL of any such matters that come to the AUDITORS attention. The COUNCIL authorizes the AUDITOR to disclose immediately all findings of suspected fraud or embezzlements to the appropriate personnel and law enforcement agency.
- At the conclusion of the fieldwork, the AUDITOR shall discuss within a reasonable time with the Executive Director and the Chair of the Children's Services Council or his/her designee, all of the AUDITOR'S comments which may be included in the final audit report pertaining to the COUNCIL.
- The AUDITOR acknowledges that the COUNCIL'S staff participation in the audit will be limited to activities within the normal course of business and that any assistance with the audit by COUNCIL personnel shall be limited to matters within the scope of each employee's responsibility. The normal levels of participation as described herein by staff in no way relieve the AUDITOR from responsibilities for the conduct of the audit.

**III. COMPENSATION AND TERMS OF PAYMENT**

- The AUDITOR will bill the COUNCIL periodically (no more frequently than bi-monthly) for services previously performed. Each billing will be for actual hours worked multiplied by the specific hourly rates set forth in subsection below. Total billing shall not exceed:

<u>FISCAL YEAR</u>	<u>MAXIMUM FEE</u>
2008/2009	\$
2009/2010	\$
2010/2011	\$

- The following are the hourly rates to be charged by the AUDITOR for the audit by individual class of audit personnel.

	<u>FISCAL YEAR</u> <b>2008/2009</b>	<u>FISCAL YEAR</u> <b>2009/2010</b>	<u>FISCAL YEAR</u> <b>2010/2011</b>
<u>Class</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Partner			
Manager			
Senior			
Staff – II			
Staff – I			
Clerical			

- Should unforeseeable conditions be encountered which might necessitate the extension of the audit beyond the scope of work set forth in Section II of this Agreement, the AUDITOR shall immediately notify the COUNCIL in writing of such conditions, providing a detailed explanation of the unforeseen conditions or circumstances and why additional time is necessary. The Children's Services Council shall approve and/or deny any such requests for additional time due to an increase in the scope of the audit prior to the firm incurring any significant increase in time. Any adjustments to the scope of the audit shall be set forth in writing and be attached to and become a part of the Agreement when approved and executed by the parties in the same manner as this Agreement.
- Upon satisfactory completion of the work required hereunder or any supplements thereto, and, upon acceptance of the work by the COUNCIL, the AUDITOR may invoice the full amount of compensation due under the terms of the Agreement less the amount(s) already paid by the COUNCIL
- The AUDITOR agrees to maintain all books, documents, papers, accounting records, and other evidences pertaining to such books, documents, papers, accounting records, and other such evidences assembled by the AUDITOR for the purpose of producing the audit report which are the property of the AUDITOR. If for due cause it may become necessary to disclose certain information contained therein, the AUDITOR will honor reasonable requests by the COUNCIL or his designee to make such materials available at its office at all reasonable times during the Agreement period for three (3) years from the date of final payment for audit inspection by the COUNCIL or its designee. Separate accounting records must be maintained for each subsequent year's work under this Agreement.
- Invoices for fees or other compensation shall be submitted in sufficient detail to demonstrate compliance with terms of the contract.

**IV. ADDITIONAL SERVICES**

The COUNCIL may request additional services at any time from the AUDITOR.

- To the extent that such services are an extension of the scope of the audit(s) as a result of increased regulatory requirements, the addition of agencies or funds to be audited, or any other reasons beyond the control of the AUDITOR, such extra services shall be compensated based upon actual hours worked at the appropriate rates by staff classification.
- To the extent that such services are separate from the scope of the audit but essential to the overall financial management of the COUNCIL, compensation for such services shall be subsequently negotiated by the COUNCIL and the AUDITOR on actual hours worked or lump sum fee basis, at the discretion of the COUNCIL.
- All requests for additional services, which result in an increase in the maximum hours and/or maximum fees set forth in section III of this Agreement, shall be approved by the Children's Services Council. All adjustments shall be set forth in writing and be attached to and become a part of this Agreement when approved and executed by the parties in the same manner as this Agreement.

**V. CHANGES IN SCOPE OF WORK**

COUNCIL or AUDITOR may request changes that would increase, decrease, or otherwise modify the "Scope of Work." Such changes and method of compensation must be set forth in writing and shall be attached to and become a part of this Agreement when approved and executed by the parties in the same manner as this Agreement.

**VI. RESPONSIBILITY OF THE AUDITOR**

- The AUDITOR shall be responsible for the professional quality, technical accuracy, and the coordination of all professional services furnished by the AUDITOR under this Agreement.
- Neither the COUNCIL'S review, approval of, acceptance of, nor payment for any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and the AUDITOR shall be and remain liable to the COUNCIL in accordance with applicable law for all damages to the COUNCIL caused by the AUDITOR'S negligent performance of any of the services furnished under this Agreement.

**OWNERSHIP OF DOCUMENTS**

All reports that result from the AUDITOR'S services under this Agreement shall become the property of the COUNCIL after final payment is made to the AUDITOR. COUNCIL or its agents without the written approval of the AUDITOR shall make no changes or revisions to the documents furnished by the AUDITOR. The AUDITOR shall provide access to its work papers to a successor auditor.

**VII. CONFLICT OF INTEREST**

The AUDITOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Florida Statutes 112.311. The AUDITOR further represents that no person having any interest shall be employed for said performance. The AUDITOR shall promptly notify the COUNCIL in writing by certified mail of all potential conflicts of interest prohibited by existing state law for any prospective business association, interest or other circumstance which may influence or appear to influence the AUDITOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the AUDITOR may undertake and request an opinion of the COUNCIL as to whether the association, interest or circumstance would, in the opinion of the COUNCIL, constitute a conflict of interest if entered into by the AUDITOR. The COUNCIL agrees to notify the AUDITOR of its opinion by certified mail within 30 days of receipt of notification by the AUDITOR. If in the opinion of the COUNCIL, the prospective business association, interest or circumstance would not constitute a conflict of interest by the AUDITOR, the COUNCIL shall so state in the notification and the AUDITOR shall, at his/her option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNCIL by the AUDITOR under the terms of this Agreement.

**VIII. INSURANCE**

- The AUDITOR shall provide certificates of insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.

- The AUDITOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000 per occurrence to protect the AUDITOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the AUDITOR or by anyone directly employed by the AUDITOR.
- The AUDITOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect the AUDITOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the AUDITOR or by anyone directly or indirectly employed by the AUDITOR.
- The parties to this Contract shall carry Workers' Compensation Insurance and Employers' Liability Insurance for all employees as required by Florida Statutes.
- The AUDITOR shall maintain, during the life of this Contract, Professional Liability insurance in the minimum amount of \$1,000,000 per occurrence.
- All insurance, other than Workers' Compensation and Professional Liability Insurance, to be maintained by the AUDITOR shall specifically include the Council as an Additional Insured.

**IX. PUBLIC ENTITY CRIMES**

The AUDITOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not be awarded or perform work as a contractor, supplier, or consultant 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, Florida Statutes.

**X. ASSIGNMENT**

This agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered under any circumstances by the parties hereto without prior written consent of the opposite party and only by a document of equal dignity herewith.

**XI. ALL PRIOR AGREEMENTS SUPERCEDED**

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understanding applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the term hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modifications, amendments, or alterations in the terms of conditions contained herein shall be effective unless contained in a written document approved and executed by the parties in the same manner as this Agreement.

**XII. TRUTH-IN NEGOTIATION CERTIFICATES**

The contract between **CHILDREN'S SERVICES COUNCIL AND \_\_\_\_\_** for the audit of the fiscal year ending September 30, 2009, \_\_\_\_\_, herewith certifies that:

- The rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and correct at the time of contracting.

- Any and all limitations on current or future years' audit contract fees including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered are disclosed herein.
- All services rendered are at rates or terms that are customary.
- The contract price and additions shall be adjusted to exclude any significant sums by which the COUNCIL determines the contract price was increased due to inaccurate or incomplete factual unit costs within one (1) year of the end of contract.

**XIII. TERMINATION**

If either party defaults in the performance of any substantial term, covenant or condition of the Agreement, the non-defaulting party may terminate this Agreement upon not less than thirty (30) days notice unless the defaulting party has cured the default or is in the process of curing the default to the satisfaction of the non-defaulting party. The COUNCIL reserves the right to terminate this Agreement upon 90 days written notice to the AUDITOR.

**XIV. MISCELLANEOUS**

- **INDEMNIFICATION:** The AUDITOR shall indemnify and hold harmless the COUNCIL, and its officers and employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the AUDITOR and other persons employed or utilized by the AUDITOR in the performance of the services herein. Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the COUNCIL or AUDITOR, nor shall this agreement be construed a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes.
- **DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES:** All claims arising out of this agreement or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Martin County, Florida. The parties shall share the mediator's fee equally. The mediation shall be held in Martin County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the agreement will be held in Martin County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- **INDEPENDENT CONTRACTOR RELATIONSHIP:** The AUDITOR is, and shall be, in the performance of all services under this agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNCIL. All persons engaged in any of the services performed pursuant to this agreement shall at all times, and in all places, be subject to the AUDITOR's sole discretion, supervision, and control.
- **NOTICE:** All notices required in this agreement shall be sent by certified mail, return receipt requested, or by nationally recognized overnight courier to the addresses first appearing in this agreement. The addresses may be changed if such change is provided in writing to the other party.

- TIME: Time shall be of the essence with respect to all services under this agreement.
- WAIVER: Failure of a party to enforce or exercise any of its right(s) under this agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.
- COUNTERPARTS: This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this agreement.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement in (3) counterparts on the respective dates under each signature; through the **Children's Services Council**, signing by and through its Chair, authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_ 2009, and \_\_\_\_\_ signing by and through its Director, duly authorized to execute same.

**ATTEST:** **CHILDREN'S SERVICES COUNCIL OF MARTIN COUNTY**

\_\_\_\_\_  
**COUNCIL SECRETARY**

BY: \_\_\_\_\_  
**COUNCIL CHAIR**

DATE: \_\_\_\_\_

**APPROVED AS TO FORM AND CORRECTNESS**

BY: \_\_\_\_\_  
**COUNCIL ATTORNEY**

DATE: \_\_\_\_\_

**AUDITOR**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**WITNESSES:**  
 \_\_\_\_\_  
 \_\_\_\_\_