

3383

**CITY OF NEWPORT, OREGON
GOODS AND SERVICES CONTRACT**

**GREATER NEWPORT CHAMBER OF COMMERCE
TOURISM MARKETING SERVICES**

BASED UPON the quotes submitted in response to a request for proposals for Tourism Marketing Services, as issued and administered by City of Newport (City), City and the Greater Newport Chamber of Commerce (Contractor) hereby enter into a contract for services in accordance with the specifications and quote provided.

All terms of the following exhibits are hereby incorporated by reference into this Contract, and Contractor agrees to comply with each:

- (1) Exhibit A - Request for Proposals
- (2) Exhibit B - Contractor Proposal
- (3) Exhibit C - Oregon Public Contracting Requirements

To the extent there are any inconsistencies or conflicts between this document and Exhibit B, this document shall control and prevail.

1. Term. The term of this Contract shall extend from its execution to June 30, 2025, unless extended for two additional one-year periods of time upon written mutual agreement of both parties. Notwithstanding this Term, City reserves the right to terminate this Contract as outlined in this Agreement.
2. Scope of Work. Contractor shall provide all materials, labor, equipment, and all other services and facilities necessary for the services specified in the attached Exhibits A and B (Project). Work shall begin within seven days of the date given in the Notice to Proceed.
3. Compensation.

3.1 Basis of Payment. Contractor shall complete Project as defined above and in the attached exhibits for the prices in Exhibit B, with an estimated total fee of \$547,500 for the three-year term of the contract (\$182,500/annually, and \$45,625/quarter).

3.2 Invoices. Payments shall be made on a quarterly basis, by the city, based upon Contractor's invoices submitted to City, on July 1, October 1, January 1, and April 1.

Since an extension to the previous contract was entered into on June 28, 2022 , and Contractor was paid the previous contracted quarterly rate of \$43,125 for the July 1, 2022 payment, the City will pay the difference between the previous rate, and the rate

included in this contract (\$45,625/quarter). Regular quarterly payments will begin on October 1, 2022.

If City fails to make any payment due Contractor for services and expenses within thirty (30) days of the date on Contractor's invoice therefore, late fees will be added to amounts due Contractor at the rate of 1.0 percent (1%) per month from original invoice date. Invoices in dispute are not subject to such late fees until such time as they are no longer in dispute.

4. Permits. City will be responsible for obtaining all permits, approvals and authorizations necessary for Contractor's performance.
5. Termination for Convenience. This Contract may be terminated by mutual consent of the parties upon written notice. In addition, City may terminate all or part of this Contract upon determining that termination is in the best interest of City by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Upon termination under this paragraph, Contractor shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) City has against Contractor. Pursuant to this paragraph, Contractor shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Contractor. City shall not be liable for any costs invoiced later than thirty (30) days after termination unless Contractor can show good cause beyond its control for the delay.
6. Termination for Cause. City may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:
 - 6.1 If City funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.
 - 6.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
 - 6.3 If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed.

7. Termination for Default. Either City or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within fifteen (15) days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

If Contractor fails to perform in the manner called for in this Contract or if Contractor fails to comply with any other provisions of the Contract, City may terminate this Contract for default. Termination shall be affected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor shall be paid the Contract price only for equipment installed and services performed in accordance with the manner of performance as set forth in this Contract.

8. Remedies. In the event of breach of this Contract, the parties shall have the following remedies:

8.1 If terminated under paragraph 7 by City due to a breach by Contractor, City may complete the work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Contractor shall pay to City the amount of the reasonable excess.

8.2 In addition to the above remedies for a breach by Contractor, City also shall be entitled to any other equitable and legal remedies that are available.

8.3 If City breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

8.4 City shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.

8.5 Upon receiving a notice of termination, and except as otherwise directed in writing by City, Contractor shall immediately cease all activities related to the services and work under this Contract.

9. Standard of Care. Contractor warrants that the work to be performed pursuant to this Contract shall be done in a good and workmanlike manner and will conform to the highest standards prevalent in the industry or business most closely involved in providing the equipment and services City is purchasing.

10. Reports. The Contractor shall provide City with reports as detailed in Contractor's proposal, at a minimum of once per month, outlining the Project progress, issues of concern and budget status.
11. Change Orders. Contractor and City reserve the right to order changes to the equipment and services to be provided herein. Contractor and City shall determine a fair and equitable cost and, if required, additional time for such changes. All such changes shall be ordered and agreed to in writing by both parties.
12. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of any confidential information to which it is exposed by reason of this Contract. Contractor warrants that its employees assigned to this Contract shall maintain necessary confidentiality.
13. Security and Substance Check. Contractor agrees that each of its employees and subcontractor's employees involved in this Project may, at the option of City and in compliance with Contractor policy, be subject to a security background check and/or substance abuse testing.
14. Access to Records. For a period of not less than three years after City's final payment to Contractor, Contractor shall permit the City, the State of Oregon and the Federal Government (if State or Federal funding is involved) to have access to all books, documents, papers and records of Contractor which are pertinent to the Services provided hereunder for purposes of audit, examination, excerpts and transcripts. Contractor shall retain those records for at least three years, or until litigation is resolved if litigation is instituted.
15. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

CITY:

City of Newport
169 SW Coast Highway
Newport, Oregon 97365
Phone: 541.574.0603

CONTRACTOR:

Greater Newport Chamber of Commerce
555 SW Coast Highway
Newport, Oregon 97365
Phone: 541.265.8801

16. Warranty. Contractor's warranty is as stated in Exhibit B. Acceptance of any service by City shall not alter or affect the obligations of Contractor or the rights of City.

17. Insurance. Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the Contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

17.1. Commercial General Liability Insurance

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,300,000
Personal & Advertising Injury	\$1,300,000
Errors & Omissions	\$1,300,000
Each Occurrence	\$1,300,000
Fire Damage (Any one fire)	\$50,000
Medical Expense (Any one person)	\$5,000

17.2. Commercial Automobile Insurance

Contractor shall also obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,300,000.

17.3. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract that are either subject employers that will comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

17.4. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

17.5. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage of Contractor's insurance without 30 days prior written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days prior notice of cancellation to the City

17.6. Certificates of Insurance

As evidence of the insurance coverage required by the Agreement, the Contractor shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this Agreement. A renewal certificate will be sent to the City 10 days prior to coverage expiration.

17.7. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

17.8. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit Contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

18. Indemnity. To the extent permitted by law, Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or

destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement or Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the negligence of City. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

19. Force Majeure. This section applies in the event that either party is unable to perform the obligations of this Agreement because of a Force Majeure event as defined herein, to the extent that the Agreement obligation must be suspended. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body which prevents performance. Should either party suffer from a Force Majeure event and be unable to perform, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance. Upon receipt of such notice, the parties shall be excused from such performance as it is affected by the Force Majeure event for the period of such event. If such event effects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such event.
20. Independent Contractor. It is the intention and understanding of the parties that Contractor is an independent contractor and that City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of Contractor shall not be deemed to convert this contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that City is not the exclusive user of the services that Contractor provides.
21. Assignment. Contractor shall not assign or subcontract any of its obligations under this Agreement without City's prior written consent, which may be granted or withheld in City's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Agreement. City's consent to any assignment or subcontract shall not release Contractor from liability under this Agreement or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.
22. Non-Waiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder

should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

23. Non-Discrimination. Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
24. Errors. Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles.
26. Consent to Jurisdiction. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.
27. Public Contracting Requirements. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth in Exhibit C, attached hereto and incorporated herein by this reference.
28. Arbitration. If any disputes, disagreements, or controversies arise between the parties pertaining to the interpretation, validity, or enforcement of this Agreement, the parties shall, upon the request of City, submit such dispute to binding arbitration under the Oregon Uniform Arbitration Act, ORS 36.600 et seq. Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Lincoln County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator's decision shall be binding upon the parties.
29. Attorney Fees. If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees

incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for City to incur the services of an attorney to enforce any provision of this Agreement without initiating litigation, Contractor agrees to pay City's attorney fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party.

30. Severability/Counterparts. In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.
31. Entire Agreement. This Agreement shall be the exclusive agreement between the parties with respect to the included terms and for the Project. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of both parties, except as otherwise authorized herein.
32. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by an authorized representative of each party.

CITY:

CONTRACTOR:

By: Margaret M. Hawker

By: [Signature]

Title: Acting City Manager

Title: Executive Director

Date: September 20, 2022

Date: 9-20-22

EXHIBIT A
Request for Proposals

EXHIBIT B
Contractor Proposal

EXHIBIT C
Oregon Public Contracting Requirements
ORS CHAPTERS 279B AND 279C REQUIREMENTS

(1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1); 279C.505(1)(a)

(2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2); 279C.505(1)(b)

(3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3); 279C.505(1)(c)

(4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279B.220(4); 279C.505(1)(d).

(5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid. ORS 279C.515

(6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1); 279C.530(1)

(7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2); 279C.530(2)

(8) Contractor shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3); 279C.520(3)

(9) The Contractor must give notice to employees who work on this contract in writing,

either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2); 279C.520(2)

(10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430

(11) The contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.

(12) Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.

(13) Contractor certifies that it has not discriminated against minorities, women, service-disabled veterans, or emerging small business or disadvantaged business enterprises in obtaining any required subcontractors. ORS 279A.110

(14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120

1. The first part of the paper discusses the importance of the study and the objectives of the research.

2. The second part of the paper describes the methodology used in the study and the data collection process.

3. The third part of the paper presents the results of the study and discusses the findings.

4. The fourth part of the paper discusses the implications of the study and provides conclusions.

5. The fifth part of the paper discusses the limitations of the study and suggests areas for future research.

6. The sixth part of the paper discusses the contributions of the study to the field of research.

7. The seventh part of the paper discusses the practical applications of the study and provides recommendations.

EXHIBIT A
Request for Proposals

Exhibit A

CITY OF NEWPORT, OREGON

**REQUEST FOR PROPOSALS
VISITOR FULFILLMENT SERVICES**



SUBMIT PROPOSAL TO:

**Peggy Hawker, City
Recorder/Special Projects Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365**

Due Date: May 23, 2022

CITY OF NEWPORT, OREGON

Request for Proposal Visitor Fulfillment Services

I. BACKGROUND

A. Proposer Entity

The City of Newport ("City") is seeking a well-qualified profit or non-profit organization to submit a proposal to provide tourism promotion services for the city for a term of three years.

B. Overview

The City of Newport is a prime tourist destination and the population center of the Central Oregon Coast. Newport is the county seat of Lincoln County, and houses the offices of several federal and state agencies, including a major Coast Guard station, Oregon State University's Hatfield Marine Science Center, NOAA's Pacific Marine Operations Center, the Oregon State Police, Oregon DMV, and Oregon Employment Division offices. The city is home to the Samaritan Pacific Communities Hospital, and the main campus of the Oregon Coast Community College. OCCC is a premier educational institution and unique in its aquarist program. Its aquarist graduates are working in aquarium and research facilities throughout the country. Newport has a population of more than 10,000.

The Yaquina River flows into the Pacific Ocean through Newport's Yaquina Bay. Newport is home to the Oregon Coast Aquarium, one of the country's premier aquariums. A substantial commercial fishing fleet calls Newport home, as do several marine research vessels and a large number of private boats docked in marinas around the Bayfront. Newport is one of three deep-water ports on the Oregon Coast. Tonnage of shipping is second behind Coos Bay.

Newport has often been described as the most authentic city on the entire Oregon Coast. The city boasts numerous fine shops, restaurants, galleries, lodging establishments, and endless outdoor recreational opportunities.

Proximity to Portland and the Willamette Valley provides a strong tourism base, and the mid-latitude of Oregon provides moderate rainfall during the winter and spring months, and mild temperatures.

C. Source of Funds and Budget

The source of funds for this service is from the city's Transient Room Tax Fund.

III. SPECIFICATIONS

A. Goals and Objectives

The objective of this RFP is to award a three-year contract to an entity that will provide visitor fulfillment services for the City of Newport, including, but not limited to:

1. Visitor Center;
2. Visitor information;
3. Media information;
4. Visitor website and website maintenance;
5. Visitor kiosk;
6. Hospitality training;
7. Support group and research tours;
8. Support goals of the Destination Newport Committee;
9. Value season promotion;
10. Other projects and cooperative involvement with local, regional, and state tourism opportunities;
11. Statistical reporting, including lodging occupancy, and Dean Runyon Report.

B. Scope of Services

All services shall be provided under the direction of the City Manager and City Council in coordination with the Destination Newport Committee to complement the city's advertising program. The visitor fulfillment services provided shall include, but not be limited to, the following tasks:

1. Visitor Information:
 - a. Visitor guide;
 - b. Calendar of events;
 - c. Map/Exploring Newport - A to Z;

- d. "Eat, Stay, Play" digital information updated regularly;
- e. Oregon calendar of events - submit primary local events for inclusion in this publication annually;
- f. Online facility guide;
- g. Responses to requests for information generated by the city's advertising efforts. Services include the operation of a visitor center, responding to phone inquiries during regular business hours, preparing and mailing requested information (including paying for postage that may be in an amount up to \$5,000), and responding to e-mail requests.

2. Media Information:

- a. Media kit;
- b. Digital photo library;
- c. Newspaper and other articles;
- d. Host and/or support domestic and international travel writers;
- e. Produce regular and seasonal press releases;
- f. Develop and maintain relationships with media;
- g. Work with Travel Oregon, Oregon Coast Visitor's Association, and other groups on familiarization tours for journalists and the travel trade industry.

3. Visitor Web Page Maintenance. Have or develop visitor landing pages within a website that complements the Discover Newport website. Services shall include updating and maintaining the visitor website. At a minimum, the website maintenance shall include:

- a. Calendar of events;
- b. Photographs;
- c. Press release page;
- d. Group tour information;
- e. Facility information;
- f. Shuttle maps the business information;
- g. Attraction information;
- h. Business information;
- i. Responses to e-mail and social networking;
- j. Content development as necessary to keep website fresh.

4. Visitor Kiosk

- a. Maintain 24-hour information kiosk in the city in a highly visible location;
 - b. Provide information about Newport to other regional kiosk centers.
- 5. Hospitality Training
 - a. Develop and implement training for hospitality industry employees within the corporate limits of Newport.
- 6. Support Group and Research Tours
 - a. Provide material and information to tour groups referred by Travel Oregon or similar organizations.
- 7. Support the Goals of the City's Destination Newport Committee
 - a. Support all Destination Newport Committee programs;
 - b. Forward marketing opportunities to the city's contracted advertising service provider;
 - c. Participate at Destination Newport Committee meetings;
 - d. Fulfill Destination Newport Committee requests related to tourism or relocation marketing (fulfillment);
 - e. Demonstrate intimate knowledge of Newport;
 - f. Promote Newport and the surrounding economic area as appropriate.
- 8. Value Season Promotion
 - a. Develop programming to enhance and support tourism during the off and shoulder seasons.
- 9. Cooperative Involvement with Local, Regional, and State Visitor's Organizations
 - a. Represent Newport at domestic and international trade and travel shows;
 - b. Work cooperatively with other agencies to attract tourists during shoulder and off seasons.
- 10. Statistical Reporting

- a. Conduct occupancy surveys with the lodging community and provide quarterly data;
- b. Collect data regarding visitor's residences and how they learned of Newport;
- c. Collect other information as requested by the city.

C. Eligible Contractor

Contractor must be qualified to conduct business in the State of Oregon and City of Newport. If the contractor is a corporation or limited liability company, it must be in good standing with the Secretary of State.

D. Contract Term

The term of the contract shall be three years.

E. Preliminary Schedule

Release of Request for Proposals	April 29, 2022
Pre-Proposal Conference	May 10, 2022 @11 A.M.
Written Questions about Proposals	May 13, 2022 @ Noon
Proposals Due	May 23, 2022 @ 5 P.M.
Proposal Award Date	June 20, 2022
Contractor Begins Work	July 1, 2022

F. Pre-Proposal Conference

An optional Pre-Proposal Conference has been scheduled to answer questions about this RFP on Tuesday, May 10, 2022, at 11:00 A.M., at:

City of Newport City Hall
169 SW Coast Highway
Newport, Oregon 97365

Please RSVP to Peggy Hawker at 541.574.0613, or e-mail: p.hawker@newportoregon.gov to confirm your attendance.

At this conference, city staff will review the RFP document and respond to questions regarding requirements of the RFP. The City of Newport does not discriminate based on disability and, upon request, will provide reasonable accommodations to ensure equal access to its programs, services, and activities. Please contact the city at least 72 hours in advance to request

an accommodation.

G. Deadline for Submission of Proposals

Proposals must be submitted by e-mail to Peggy Hawker, at p.hawker@newportoregon.gov, and received by 5:00 P.M., on May 23, 2022. The subject line of the e-mail must read, "Visitor Fulfillment Services Proposal."

Timely submission of proposals is the sole responsibility of the proposer. The city reserves the right to determine the timeliness of all submissions. Late proposals will not be accepted. All proposals received after the deadline will not be accepted.

H. Proposal Requirements

The following outlines the proposal requirements. Submission of a proposal pursuant to this RFP constitutes acknowledgement and acceptance of the terms and conditions set forth herein, and those required under City's Public Contracting Rules 2012 (located on City's webpage, under Administration, City Recorder). The RFP will be incorporated into any resulting Contract with the successful proposer, along with any terms of the accepted proposal which are not in conflict therewith, as well as provisions which are permissible matters for negotiation, as set forth herein. The contents of the proposal submitted by the successful proposer may become contractual obligations if a Contract is awarded.

A sample Contract, as an example only, is attached to this RFP as Exhibit A. In the event of a conflict between the provisions of applicable law, applicable City Public Contracting Rules 2012, this Request for Proposals, and the successful proposal, the order of precedence shall be as set forth in this sentence.

Failure of the successful proposer to accept these obligations may result in cancellation of the award. The city reserves the right to withdraw this RFP at any time without prior notice. All proposals submitted in response to the RFP become the property of the city and will be a public record after the selection process is completed. Each proposal must contain the following:

a. Cover Letter for the Proposal

A cover letter must be submitted with the proposal. The cover letter should be limited to one page and must include the company name, company address, and the name, telephone number, fax number, and e-mail address of the person(s) authorized to represent the firm on all matters relating to the RFP and any contract awarded pursuant to this RFP. A person authorized to bind the proposer to all commitments made in the proposal must sign the letter.

b. Providing Services to Meet Goals and Objectives

Each proposer shall furnish a narrative of how the organization will provide services to meet the city's goals and objectives.

c. Proposer Experience

Each proposer shall furnish a narrative supported by relevant data regarding past experience with similar projects, including names of organizations and persons with whom proposer has entered into contracts and employment for substantially similar services as described herein, within the last five (5) years. Proposer shall also identify the individuals who will be assigned to work on this project.

Each proposer shall also furnish a list of references including names, addresses, phone numbers, and principal contacts in which the proposer has provided similar services. By submitting a proposal, a proposer consents to City contacting listed references, as well as parties with whom proposer has previously contracted. The results of those contacts will be considered by City in its evaluation of proposer's proposal, and provided herein.

d. Projected Costs and Proposed Services

Itemize the annual projected costs of each component in the "Scope of Services" described above. If applicable, identify other sources of revenue that can be matched or leveraged to provide a greater promotion of Newport.

I. **Proposal Evaluation and Selection Process**

The city will conduct a preliminary evaluation of all

proposals to determine compliance with proposal requirements and mandatory document submissions. The city reserves the right to request additional information to clarify the content of a proposal.

All proposals shall be reviewed to determine that the minimum eligibility requirements have been met. Ineligible proposers will be informed via e-mail.

Proposals will be evaluated based upon the following categories, including references and information from entities or persons with whom Proposer has entered into contract(s) within the last five years. Proposals will be scored, and ranked. No single category is determinative, or entitled to greater weight in the evaluation process than any other. The proposal selected as the successful proposal will be determined by the highest point total, based on the categories below. The successful proposal may be eligible for negotiation as to the matters, if any, which are identified as suitable for negotiation in this RFP.

Proposer qualifications, experience, and demonstrated ability, including references and contacts with previous contracting parties	40 points
Quality and responsiveness of proposal to the Goals and Objectives and Scope of Service detailed in this RFP	40 points
Cost reasonableness, appropriateness, and necessity as compared to all other proposals to provide the services proposed within the city's annual budget and other leveraged monies	20 points

J. CONTRACT AWARD PROCESS

The City Council may accept or reject the recommendation of the staff as to the successful proposer, cancelation of the procurement, or related matters.

The successful proposer that is selected to perform the services outlined in this RFP shall enter into a contract, approved by the City Attorney, directly with the City of Newport, within thirty (30) days of the Notice of Intent to Award Contract, or such later date as determined by the City Council.

The city reserves the right to verify the information received in the proposal. If the proposer knowingly and

willfully submits false information or data, the city reserves the right to reject that proposal. If it is determined that a contract was awarded or entered into because of false statements, or other incorrect data submitted in response to this RFP, the city reserves the right to terminate the contract, without penalty therefor, and with all rights reserved.

K. GENERAL RFP AND CITY CONTRACT INFORMATION

The following terms and conditions apply to the agreement entered into between the successful proposer and the City of Newport:

1. Laws and Policies

In the performance of the visitor services fulfillment agreement, the selected successful proposer shall abide by and conform to all applicable laws and rules of the United States, State of Oregon, and the City of Newport.

2. Costs Incurred by Proposers

All costs of proposal preparation shall be the responsibility of the proposer. The city shall not, in any event, be liable for any pre-contractual expenses incurred by proposers in the preparation and/or submission of the proposals. Proposals shall not include any such expenses as part of the proposed budget.

3. General City Reservations

City reserves the right to extend the submission deadline should this be in the best interest of the city. Proposers have the right to revise their proposals in the event that the deadline is extended.

The city reserves the right to withdraw this RFP at any time, and will notify proposers that the solicitation has been canceled. The city makes no representation that any contract will be awarded to any proposer responding to the RFP. The city reserves the right to reject any or all submissions.

If in city's judgment, an inadequate number of proposals are received, or the proposals received are deemed non-responsive, not qualified, or not cost effective, the city

may, at its sole discretion, reissue the RFP, or execute a contract with the next highest ranked proposer, or to cancel this solicitation, all subject to compliance with City's public contracting rules.

City reserves the right, subject to the city's public contracting rules and applicable statutes, to reject any and all proposals and to waive any minor informality when to do so would be advantageous to the city.

4. Termination

Any contract awarded pursuant to this RFP may be terminated by the city, with or without cause.

L. PUBLIC RECORDS DISCLOSURE

Information provided to the Agency will become property of the Agency and will be subject to public inspection after completion of the evaluation in accordance with Oregon Public Records Law, ORS 192.311 et seq. If an entity responding to this RFP believes that a specific portion of its response constitutes a "trade secret" under Oregon Public Records Law (ORS 192.345(2)) and is; therefore, exempt from public disclosure, the entity must clearly identify that specific information as a "trade secret." Identification of information as a "trade secret" does not necessarily mean that the information will be exempt from disclosure. The agency will make that determination based upon the nature of the information and the requirements of Oregon Public Record Law.

M. Proposer's Contact for Information

Proposers may contact Peggy Hawker, City Recorder/Special Projects Director, with any questions regarding the scope of work of this RFP at:

Peggy Hawker, City Recorder/Special Projects Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.0613
p.hawker@newportoregon.gov

EXHIBIT A

CITY OF NEWPORT, OREGON

DRAFT GOODS AND SERVICES CONTRACT

Visitor Fulfillment Services

The City of Newport, an Oregon municipal corporation (City), and [REDACTED] (Contractor) hereby enter into a contract for services in accordance with the specifications and proposal provided.

All terms of the following exhibits are hereby incorporated by reference into this Contract, and Contractor agrees to comply with each:

- (1) Exhibit A - Request for Proposals
- (2) Exhibit B - Contractor Proposal
- (3) Exhibit C - Oregon Public Contracting Requirements

To the extent there are any inconsistencies or conflicts between this document and Exhibit B, this document shall control and prevail.

1. Term. The term of this Contract shall extend from [REDACTED] to [REDACTED], unless extended for additional periods of time upon written mutual agreement of both parties. Notwithstanding this Term, City reserves the right to terminate this Contract as outlined in this Agreement.

2. Scope of Work. Contractor shall provide all materials, labor, equipment, and all other services and facilities necessary for the services specified in the attached Exhibits A and B (Project). All work shall be completed within each year of the contract.

3. Compensation.

3.1 Basis of Payment. Contractor shall complete Project as defined above and in the attached exhibits for a total fee of \$ [REDACTED] for each year of the contract.

3.2 Payment. Payment shall be made for services on a quarterly basis by the City, in the amount of \$ [REDACTED] on July 1, October 1, January 1, and April 1.

If City fails to make any payment due Contractor for services within thirty (30) days of receipt of Contractor's invoice for quarterly payment, late fees will be added to amounts due Contractor at the rate of 1.0 percent (1%) per month from the invoice date. Invoices in dispute are not subject to such late fees until such time as they are no longer in dispute.

4. Permits. City will be responsible for obtaining all permits, approvals, and authorizations necessary for Contractor's performance.

5. Termination for Convenience. This Contract may be terminated by mutual consent of the parties upon written notice. In addition, City may terminate all or part of this Contract upon determining that termination is in the best interest of City by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Upon termination under this paragraph, Contractor shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) City has against Contractor. Pursuant to this paragraph, Contractor shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Contractor. City shall not be liable for any costs invoiced later than thirty (30) days after termination unless Contractor can show good cause beyond its control for the delay.

6. Termination for Cause. City may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

6.1 If City funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.

6.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.

6.3 If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed.

7. Termination for Default. Either City or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within fifteen (15) days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

If Contractor fails to perform in the manner called for in this Contract or if Contractor fails to comply with any other provisions of the Contract, City may terminate this Contract for default. Termination shall be affected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor shall be paid the Contract price only for equipment installed and services performed in accordance with the manner of performance as set forth in

this Contract.

8. Remedies. In the event of breach of this Contract, the parties shall have the following remedies:

8.1 If terminated under paragraph 7 by City due to a breach by Contractor, City may complete the work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Contractor shall pay to City the amount of the reasonable excess.

8.2 In addition to the above remedies for a breach by Contractor, City also shall be entitled to any other equitable and legal remedies that are available.

8.3 If City breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

8.4 City shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.

8.5 Upon receiving a notice of termination, and except as otherwise directed in writing by City, Contractor shall immediately cease all activities related to the services and work under this Contract.

9. Standard of Care. Contractor warrants that the work to be performed pursuant to this Contract shall be done in a good and workmanlike manner and will conform to the highest standards prevalent in the industry or business most closely involved in providing the equipment and services City is purchasing.

10. Reports. The Contractor shall provide City with reports as detailed in Contractor's proposal, at a minimum of once per month, outlining the Project progress, issues of concern and budget status.

11. Change Orders. Contractor and City reserve the right to order changes to the equipment and services to be provided herein. Contractor and City shall determine a fair and equitable cost and, if required, additional time for such changes. All such changes shall be ordered and agreed to in writing by both parties.

12. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of any confidential information to which it is exposed by reason of this Contract. Contractor warrants that its employees assigned to this Contract shall maintain necessary confidentiality.

13. Security and Substance Check. Contractor agrees that each of its employees and subcontractor's employees involved in this Project may, at the option of City and in compliance with Contractor policy, be subject to a security background check

and/or substance abuse testing.

14. Access to Records. For a period of not less than three years after City's final payment to Contractor, Contractor shall permit the City, the State of Oregon and the Federal Government (if State or Federal funding is involved) to have access to all books, documents, papers and records of Contractor which are pertinent to the Services provided hereunder for purposes of audit, examination, excerpts and transcripts. Contractor shall retain those records for at least three years, or until litigation is resolved if litigation is instituted.

15. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

CITY:

CONTRACTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365
Phone: (541) 574-0603
Fax: (541) 574-0609

Phone: _____
Fax: _____

16. Warranty. Contractor's warranty is as stated within Exhibit B. Acceptance of any service by City shall not alter or affect the obligations of Contractor or the rights of City.

17. Insurance. Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the Contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

17.1. Commercial General Liability Insurance

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

Coverage	Limit
General Aggregate	\$2,000,000

Products-Completed Operations Aggregate	\$1,300,000
Personal & Advertising Injury	\$1,300,000
Errors & Omissions	\$1,300,000
Each Occurrence	\$1,300,000
Fire Damage (Any one fire)	\$50,000
Medical Expense (Any one person)	\$5,000

17.2. Commercial Automobile Insurance

Contractor shall also obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,300,000.

17.3. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are either subject employers that will comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

17.4. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

17.5. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage of Contractor's insurance without 30 days prior written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days prior notice of cancellation to the City

17.6. Certificates of Insurance

As evidence of the insurance coverage required by the Agreement, the Contractor shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this Agreement. A renewal certificate will be sent to the City 10 days prior to coverage expiration.

17.7. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

17.8. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit Contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

18. Indemnity. To the extent permitted by law, Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement or Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the negligence of City. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

19. Force Majeure. This section applies in the event that either party is unable to perform the obligations of this Agreement because of a Force Majeure event as defined herein, to the extent that the Agreement obligation must be suspended. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body which prevents performance. Should either party suffer from a Force Majeure event and be unable to perform, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance. Upon receipt of such notice, the parties shall be excused from such performance as it is affected by the Force Majeure event for the period of such event. If such event effects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such event.

20. Independent Contractor. It is the intention and understanding of the parties that Contractor is an independent contractor and that City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor

to pay any social security or other tax that may arise as an incident of employment. Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of Contractor shall not be deemed to convert this contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that City is not the exclusive user of the services that Contractor provides.

21. Assignment. Contractor shall not assign or subcontract any of its obligations under this Agreement without City's prior written consent, which may be granted or withheld in City's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Agreement. City's consent to any assignment or subcontract shall not release Contractor from liability under this Agreement or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

22. Non-Waiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

23. Non-Discrimination. Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

24. Errors. Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles.

26. Consent to Jurisdiction. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

27. Public Contracting Requirements. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth in Exhibit C, attached hereto and incorporated herein by this reference.

28. Arbitration. If any disputes, disagreements, or controversies arise between

the parties pertaining to the interpretation, validity, or enforcement of this Agreement, the parties shall, upon the request of City, submit such dispute to binding arbitration under the Oregon Uniform Arbitration Act, ORS 36.600 et seq. Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Lincoln County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator's decision shall be binding upon the parties.

29. Attorney Fees. If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for City to incur the services of an attorney to enforce any provision of this Agreement without initiating litigation, Contractor agrees to pay City's attorney's fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party.

30. Severability/Counterparts. In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

31. Entire Agreement. This Agreement shall be the exclusive agreement between the parties with respect to the included terms and for the Project. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of both parties, except as otherwise authorized herein.

32. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by an authorized representative of each party.

CITY:

CONTRACTOR:

CITY OF NEWPORT



By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

EXHIBIT A
TO PERSONAL SERVICES AGREEMENT

Successful proposer's proposal.

EXHIBIT B
TO PERSONAL SERVICES AGREEMENT

RELEVANT PROVISIONS OF ORS CHAPTER 279B

279B.220 Conditions concerning payment, contributions, liens, withholding.
Every public contract shall contain a condition that the contractor shall:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

279B.230 Condition concerning payment for medical care and providing workers' compensation.

1. Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

279B.235 Condition concerning hours of labor; compliance with pay equity provisions; employee discussions of rate of pay or benefits.

1. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
2. In the case of contracts for personal services as described in ORS 279A.055, the contract shall contain a provision that the employee shall be paid at least

time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

3. (a) Except as provided in subsection (4) of this section, contracts for services must contain a provision that requires that persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations

which are satisfied by the functions $u_i(x, y, z)$ and $v_i(x, y, z)$ in the domain G of the space E_3 bounded by the surface S . It is shown that the system of equations has a unique solution in the class of functions satisfying the conditions

where \mathbf{r} is the vector of the position of the point (x, y, z) in the space E_3 and \mathbf{n} is the vector of the normal to the surface S at the point (x, y, z) .

2. In the second part of the paper the problem of the existence of solutions of the system of equations

AMENDMENT NO. 1
TO REQUEST FOR PROPOSALS
VISITOR FULFILLMENT SERVICES

1. Updated Sample Contract - Attachment A to this Amendment No. 1.
2. Clarify what group will be reviewing and recommending a proposal award to the City Council.

A group of staff will review the proposals, based on the three criteria listed in the chart in Section I. of the RFP.

3. Will the Visitor's Guide and website be based on an all-inclusive model, or a "pay to play model?"

Please outline in your proposal how you would handle handle the Visitor's Guide.

4. Is the city charging the Chamber of Commerce rent for its building, which is owned by the city?

The city charges \$1.00 annually for the Chamber's use of this building.

5. If a proposer purchases, installs, and maintains kiosks in multiple locations around the city, will the city work with proposer on this project?

Yes. The city could work to allow kiosks to be placed on city-owned properties.

6. Are events being considered as a benefit for this RFP?

Yes. Under Section A - Goals and Objectives, events could be considered to be a part of value season promotion; and specifically, Subsection 8, under Section B - Scope of Services addresses development of programming to enhance And support tourism during the off and shoulder seasons. This could reasonably be construed to include events.

7. Amendment to Page 4 of the RFP, under Subsection 3 (f), delete the words, "the business information."

CITY OF NEWPORT, OREGON
DRAFT GOODS AND SERVICES CONTRACT

Visitor Fulfillment Services

The City of Newport, an Oregon municipal corporation (City), and [REDACTED] (Contractor) hereby enter into a contract for services in accordance with the specifications and proposal provided.

All terms of the following exhibits are hereby incorporated by reference into this Contract, and Contractor agrees to comply with each:

- (1) Exhibit A – Request for Proposals
- (2) Exhibit B – Contractor Proposal
- (3) Exhibit C – Oregon Public Contracting Requirements

To the extent there are any inconsistencies or conflicts between this document and Exhibit B, this document shall control and prevail.

1. Term. The term of this Contract shall extend from [REDACTED] to [REDACTED], unless extended for additional periods of time upon written mutual agreement of both parties. Notwithstanding this Term, City reserves the right to terminate this Contract as outlined in this Agreement.
2. Scope of Work. Contractor shall provide all materials, labor, equipment, and all other services and facilities necessary for the services specified in the attached Exhibits A and B (Project). All work shall be completed within each year of the contract.
3. Compensation.

3.1 Basis of Payment. Contractor shall complete Project as defined above and in the attached exhibits for a total fee of \$ [REDACTED] for each year of the contract.

3.2 Payment. Payment shall be made for services on a quarterly basis by the City, in the amount of \$ [REDACTED] on July 1, October 1, January 1, and April 1.

If City fails to make any payment due Contractor for services within thirty (30) days of receipt of Contractor's invoice for quarterly payment, late fees will be added to amounts due Contractor at the rate of 1.0 percent (1%) per month from the invoice date. Invoices in dispute are not subject to such late fees until such time as they are no longer in dispute.

4. Permits. City will be responsible for obtaining all permits, approvals, and authorizations necessary for Contractor's performance.
5. Termination for Convenience. This Contract may be terminated by mutual consent of the parties upon written notice. In addition, City may terminate all or part of this Contract upon determining that termination is in the best interest of City by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Upon termination under this paragraph, Contractor shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) City has against Contractor. Pursuant to this paragraph, Contractor shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Contractor. City shall not be liable for any costs invoiced later than thirty (30) days after termination unless Contractor can show good cause beyond its control for the delay.
6. Termination for Cause. City may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:
 - 6.1 If City funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.
 - 6.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
 - 6.3 If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed.
7. Termination for Default. Either City or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within fifteen (15) days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

If Contractor fails to perform in the manner called for in this Contract or if Contractor fails to comply with any other provisions of the Contract, City may terminate this Contract for default. Termination shall be affected by serving a notice of termination on

Contractor setting forth the manner in which Contractor is in default. Contractor shall be paid the Contract price only for equipment installed and services performed in accordance with the manner of performance as set forth in this Contract.

8. Remedies. In the event of breach of this Contract, the parties shall have the following remedies:

8.1 If terminated under paragraph 7 by City due to a breach by Contractor, City may complete the work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Contractor shall pay to City the amount of the reasonable excess.

8.2 In addition to the above remedies for a breach by Contractor, City also shall be entitled to any other equitable and legal remedies that are available.

8.3 If City breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

8.4 City shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.

8.5 Upon receiving a notice of termination, and except as otherwise directed in writing by City, Contractor shall immediately cease all activities related to the services and work under this Contract.

9. Standard of Care. Contractor warrants that the work to be performed pursuant to this Contract shall be done in a good and workmanlike manner and will conform to the highest standards prevalent in the industry or business most closely involved in providing the equipment and services City is purchasing.

10. Reports. The Contractor shall provide City with reports as detailed in Contractor's proposal, at a minimum of once per month, outlining the Project progress, issues of concern and budget status.

11. Change Orders. Contractor and City reserve the right to order changes to the equipment and services to be provided herein. Contractor and City shall determine a fair and equitable cost and, if required, additional time for such changes. All such changes shall be ordered and agreed to in writing by both parties.

12. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of any confidential information to which it is exposed by reason of this Contract.

Contractor warrants that its employees assigned to this Contract shall maintain necessary confidentiality.

13. Security and Substance Check. Contractor agrees that each of its employees and subcontractor's employees involved in this Project may, at the option of City and in compliance with Contractor policy, be subject to a security background check and/or substance abuse testing.
14. Access to Records. For a period of not less than three years after City's final payment to Contractor, Contractor shall permit the City, the State of Oregon and the Federal Government (if State or Federal funding is involved) to have access to all books, documents, papers and records of Contractor which are pertinent to the Services provided hereunder for purposes of audit, examination, excerpts and transcripts. Contractor shall retain those records for at least three years, or until litigation is resolved if litigation is instituted.
15. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

CITY:

CONTRACTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365
Phone: (541) 574-0603
Fax: (541) 574-0609

Phone: _____
Fax: _____

16. Warranty. Contractor's warranty is as stated within Exhibit B. Acceptance of any service by City shall not alter or affect the obligations of Contractor or the rights of City.
17. Insurance. Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the Contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

17.1. Commercial General Liability Insurance

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

Coverage	Limit
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,300,000
Personal & Advertising Injury	\$1,300,000
Errors & Omissions	\$1,300,000
Each Occurrence	\$1,300,000
Fire Damage (Any one fire)	\$50,000
Medical Expense (Any one person)	\$5,000

17.2. Commercial Automobile Insurance

Contractor shall also obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,300,000.

17.3. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are either subject employers that will comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

17.4. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

17.5. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage of Contractor's insurance without 30 days prior written

notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days prior notice of cancellation to the City

17.6. Certificates of Insurance

As evidence of the insurance coverage required by the Agreement, the Contractor shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this Agreement. A renewal certificate will be sent to the City 10 days prior to coverage expiration.

17.7. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

17.8. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit Contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

18. Indemnity. To the extent permitted by law, Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement or Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the negligence of City. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.
19. Force Majeure. This section applies in the event that either party is unable to perform the obligations of this Agreement because of a Force Majeure event as defined herein,

to the extent that the Agreement obligation must be suspended. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body which prevents performance. Should either party suffer from a Force Majeure event and be unable to perform, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance. Upon receipt of such notice, the parties shall be excused from such performance as it is affected by the Force Majeure event for the period of such event. If such event effects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such event.

20. Independent Contractor. It is the intention and understanding of the parties that Contractor is an independent contractor and that City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of Contractor shall not be deemed to convert this contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that City is not the exclusive user of the services that Contractor provides.
21. Assignment. Contractor shall not assign or subcontract any of its obligations under this Agreement without City's prior written consent, which may be granted or withheld in City's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Agreement. City's consent to any assignment or subcontract shall not release Contractor from liability under this Agreement or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.
22. Non-Waiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.
23. Non-Discrimination. Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
24. Errors. Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles.
26. Consent to Jurisdiction. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.
27. Public Contracting Requirements. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth in Exhibit C, attached hereto and incorporated herein by this reference.
28. Arbitration. If any disputes, disagreements, or controversies arise between the parties pertaining to the interpretation, validity, or enforcement of this Agreement, the parties shall, upon the request of City, submit such dispute to binding arbitration under the Oregon Uniform Arbitration Act, ORS 36.600 et seq. Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Lincoln County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator's decision shall be binding upon the parties.
29. Attorney Fees. If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for City to incur the services of an attorney to enforce any provision of this Agreement without initiating litigation, Contractor agrees to pay City's attorney's fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party.
30. Severability/Counterparts. In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

31. Entire Agreement. This Agreement shall be the exclusive agreement between the parties with respect to the included terms and for the Project. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of both parties, except as otherwise authorized herein.
32. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by an authorized representative of each party.

CITY:

CONTRACTOR:

CITY OF NEWPORT



By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
Request for Proposals

EXHIBIT B
Contractor Proposal

EXHIBIT C
Oregon Public Contracting Requirements
ORS CHAPTERS 279B AND 279C REQUIREMENTS

- (1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1); 279C.505(1)(a)
- (2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2); 279C.505(1)(b)
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3); 279C.505(1)(c)
- (4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279B.220(4); 279C.505(1)(d)
- (5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid. ORS 279C.515
- (6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1); 279C.530(1)
- (7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2); 279C.530(2)

- (8) Contractor shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3); 279C.520(3)
- (9) The Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2); 279C.520(2)
- (10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430
- (11) The contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.
- (12) Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.
- (13) Contractor certifies that it has not discriminated against minorities, women, service-disabled veterans, or emerging small business or disadvantaged business enterprises in obtaining any required subcontractors. ORS 279A.110
- (14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120

EXHIBIT B
Contractor Proposal

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

Exhibit B



Greater Newport Chamber of Commerce

555 SW Coast Highway . Newport, Oregon 97365
(541) 265-8801 . Fax: (541) 265-5589 . 1-800-262-7844
www.newportchamber.org

May 19, 2022

Peggy Hawker, City Recorder/Special Projects Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365

Dear Ms. Hawker,

It is my pleasure to offer a response to your request for proposal for the City of Newport's Tourism Promotion Services. In the proposal, we hope to demonstrate our strong desire to continue serving the City of Newport as we have done for many years, in Tourism promotion and development. The proposal provides answers to your RFP inquiries as well as additional information about the Chamber

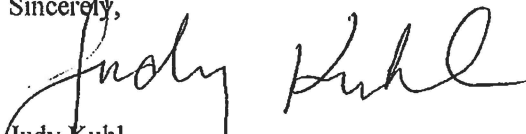
GNCC is on the frontline of tourism services. We have the unique ability to be flexible and responsive when opportunities or challenges arise. We can seek out tourism development opportunities and respond in a manner which puts Newport ahead of other destinations which are competing for visitors.

We can identify and work with industry partners such as Travel Oregon, Oregon Coast Visitors Association who understand our product, and tourism promotion, and industry challenges. These partners are responsive and proactive and ask for our input and participation on many levels from targeting issues to partnering in trade shows, familiarization tours, advertising and more. These partnerships extend our outreach and allows us the opportunity to have far more impact with our efforts.

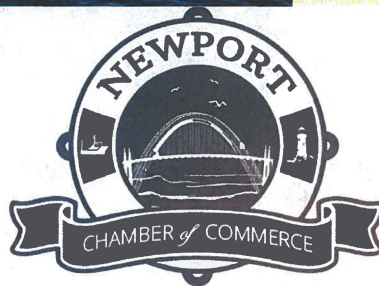
GNCC offers a cost-effective solution to drive even more resources toward marketing. Our program of work as demonstrated in the proposal shows that we operate to compliment the current marketing efforts set forth by the City of Newport's Destination Newport Committee. Our primary goal in Tourism Promotion is "To facilitate a multifaceted program of work designed to increase the frequency, duration and quantity of convention, group and leisure visits to Newport."

We look forward to continuing Tourism Promotion services for the City of Newport.

Sincerely,



Judy Kuhl
Executive Director



TOURISM, FULFILLMENT PROMOTION & DEVELOPMENT PROPOSAL

Greater Newport Chamber of Commerce

We are recognized by the State Tourism Commission as the Destination Marketing Organization for Newport

Our Visitor's Center is operated by trained professional staff and volunteers. The office is open Monday-Friday and Saturdays, July through September. The center is located on the corner of Hwy 101 with high visibility and easy access to visitors

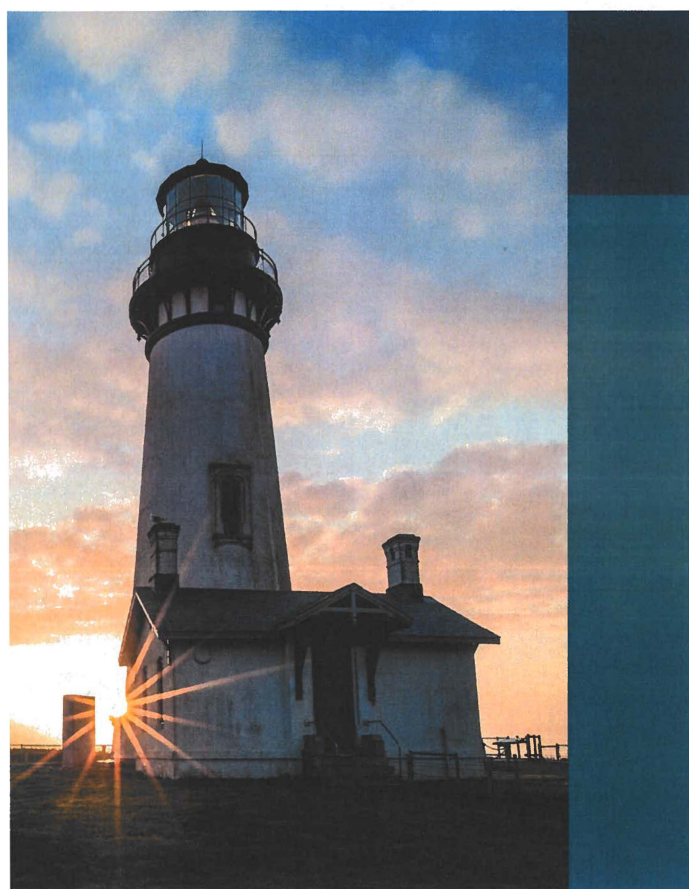
We respond to requests for information generated from a variety of sources such as: Domestic and International trade shows and sales missions

Greater Newport Chamber of Commerce

The outdoor Visitor Kiosk is available 24/7. A new Community Event Sign was completed in Fall of 2013

We provide information about Newport, including maps, visitor guides, travel publications, and other printed and digital collateral.

The Newport Chamber of Commerce currently holds a building lease agreement with the City of Newport to provide tourism. See attached lease agreement!



Why us?

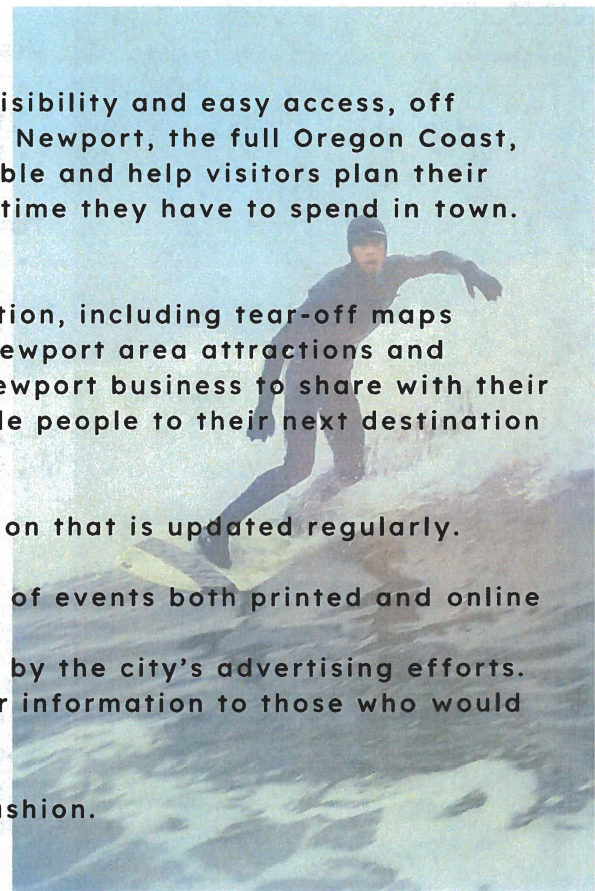
- The Greater Newport Chamber of Commerce has provided tourism promotion, fulfillment, and development services for the City of Newport for over 30 years. This has been a successful partnership and will continue to be in future years.
- This report is a summary of the services we currently provide with our city contract. We will continue to provide these services upon being awarded future contracts.
- The contract for services between the City of Newport and the Greater Newport Chamber of Commerce has been for \$172,500. The recent term of our contract for services was July 2017 to June 30, 2020. Due to COVID, this contract was extended for one-year terms 2 years in a row.
- The Chamber's Tourism Programs are partially funded through this contract. The additional program funding is provided through the Chambers annual financial investment.

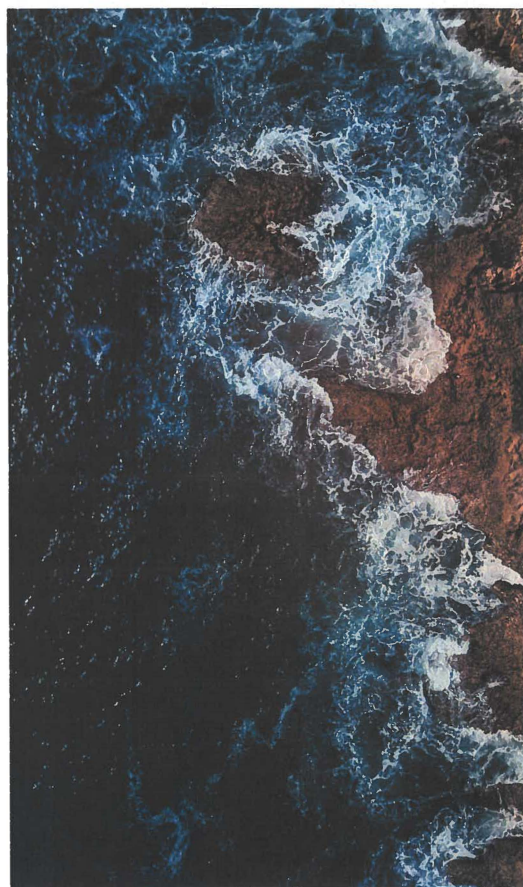
City of Newport Visitor Center

- We maintain and staff a City building with high visibility and easy access, off Highway 101 for visitors to gather information on Newport, the full Oregon Coast, and beyond. Our welcoming staff are knowledgeable and help visitors plan their time in Newport based on their interests and the time they have to spend in town.

Visitor information

- The Chamber provides up-to-date visitor information, including tear-off maps called "Exploring Newport A-Z" highlighting all Newport area attractions and activities. We give these free of charge to any Newport business to share with their guests and use them in the visitors center to guide people to their next destination in Newport.
- Our website highlights "Eat, Stay, Play" information that is updated regularly.
- We provide a comprehensive community calendar of events both printed and online
- Our office responds to phone inquiries generated by the city's advertising efforts. Our staff prepares and sends all requested visitor information to those who would like to plan their trip with brochures in hand.
- All email requests are responded to in a timely fashion.





Visitor Kiosk

- The Chamber staff maintains an outdoor, 24-hour information kiosk that is well stocked, visible from Highway 101, and well lit at night.
- We send information about Newport to other regional kiosk centers.

Tour Groups and Research Tours

- The Chamber provides printed and digital material focusing on Newport to tour groups referred by Travel Oregon or similar organizations.
- When tour groups come to Newport, we offer crabbing demonstrations and Oregon wine tastings.

Host and/or support domestic and international travel writers

- When Travel Oregon or Oregon Coast Visitor Association arrange for travel writers to explore and feature Newport, we work with them to find accommodations, meals, and activities based on their story theme. When the writers, bloggers, and journalists arrive in town, we meet them for dinner or coffee to talk about all that Newport has to offer.

Media information

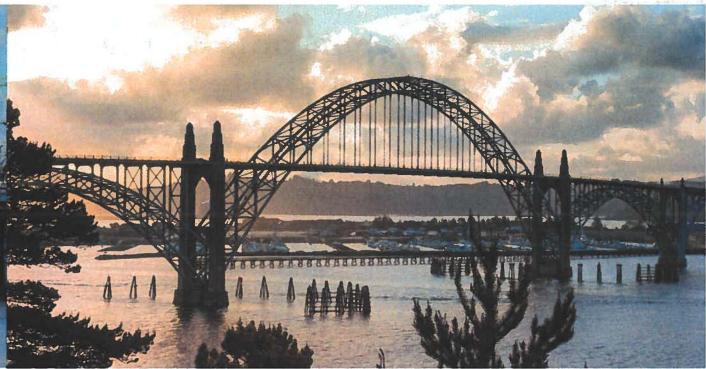
- Our staff builds and maintains relationships with media around the State of Oregon to represent Newport in all media types.
- We maintain a photo library of Newport, produce seasonal articles and trip itinerary inspirations



Maintaining social media outlets

During COVID the Chamber created a Facebook and Instagram account that lists all Newport Restaurants and what their status was. We've continued to maintain this page and it is utilized as a place for restaurants to connect with each other and share their menus and special items. It's called Newport Oregon Restaurants & Food Facebook

The Chamber holds another contract with the City of Newport to oversee Discover Newport's marketing efforts and the agency hired to complete the creative work. With this contract and oversight, we help to make sure content put on all social media outlets is relevant for the season and upcoming activities.



Visitor website and site maintenance

www.newportchamber.com

- The Chamber website is designed to serve several needs. It features economic and demographic information, business resources, visitor & attraction information, transportation sources, group rental, and facilities information, it's where our digital calendar of events and photos library can be found. It also includes our Chamber member business listings.

www.seafoodandwine.com

- The seafood and Wine site is maintained year-round with up-to-date information about the upcoming festival.

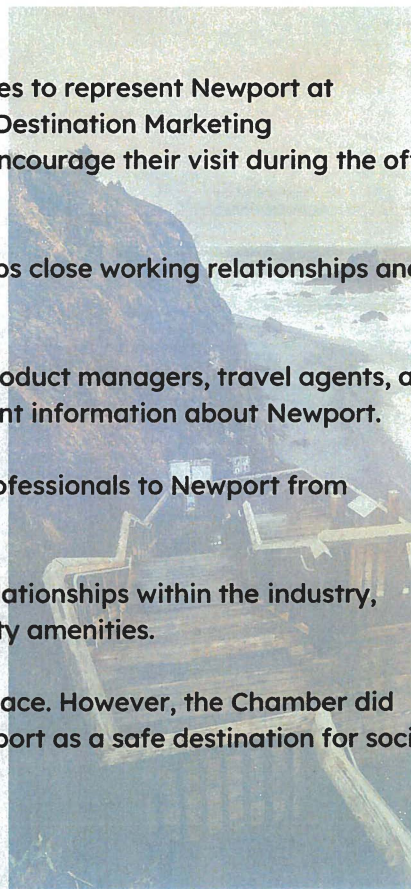
Support the Goals of the City's Destination Newport Committee

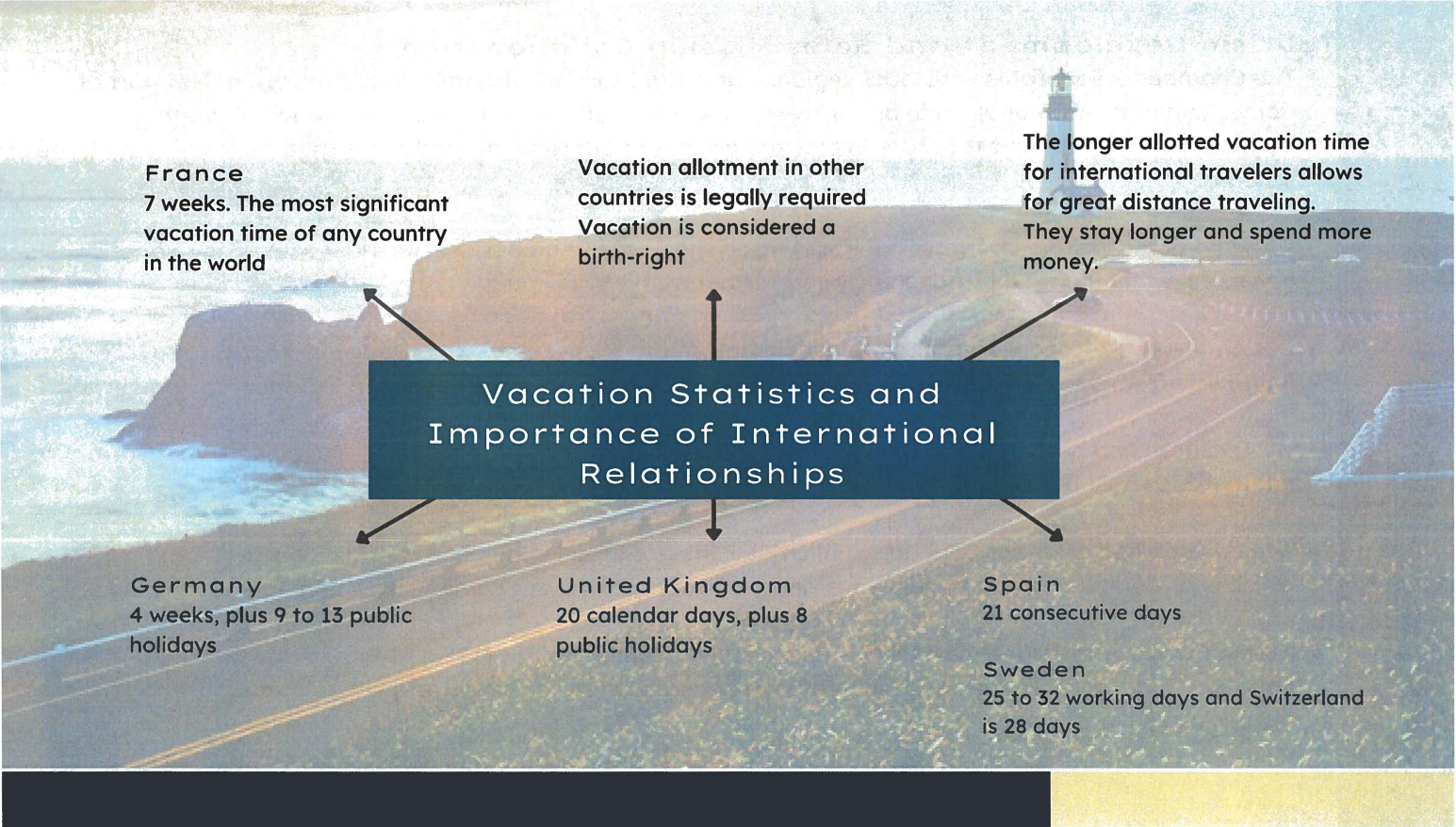
- The Chamber of Commerce currently oversees the Discover Newport Contract to ensure that the advertising for Newport is done accurately and responsibly. With this contract, we work with the committee's hired agency to create content for social media, and the Discover Newport website and negotiate the advertising purchases.
- This Discover Newport contract is a service free of charge to the City. Holding the tourism fulfillment contract has made that possible to provide staff that has intimate knowledge of Newport.



Tourism Development and Sales Mission Collaboration

- The Chamber collaborates with local, regional, and state tourism opportunities to represent Newport at domestic and international trade and travel shows cooperatively with other Destination Marketing Organizations throughout the state to educate visitors about Newport and encourage their visit during the off season.
- While on domestic and international travel trade shows the Chamber develops close working relationships and networks within the travel trade industry to further market, Newport.
- During travel tradeshow, whether domestic or international, we meet with product managers, travel agents, and journalists from a variety of media outlets, always providing the most relevant information about Newport.
- We facilitate and participate in familiarization tours for travel and media professionals to Newport from relationships built on sales missions.
- We develop and arrange press and publicity for these engage in building relationships within the industry, which is a conduit to an increase in awareness of our area and our community amenities.
- During COVID these travel tradeshow and sales missions were not taking place. However, the Chamber did participate in a virtual Brand USA sales mission where we talked about Newport as a safe destination for social distancing and outdoor activities.





France
7 weeks. The most significant
vacation time of any country
in the world

Vacation allotment in other
countries is legally required
Vacation is considered a
birth-right

The longer allotted vacation time
for international travelers allows
for great distance traveling.
They stay longer and spend more
money.

Vacation Statistics and Importance of International Relationships

Germany
4 weeks, plus 9 to 13 public
holidays

United Kingdom
20 calendar days, plus 8
public holidays

Spain
21 consecutive days

Sweden
25 to 32 working days and Switzerland
is 28 days

International Travel Sales Missions in Germany & London England

- Here is an example of a sales mission in Germany where we met with Travel Agents and educated them on all Newport has to offer.
- There were evening networking events and Newport presentations.
- Our next stop was London where we had four days of appointments, here we talked to people from all over the world about what makes Newport special.
- It was amazing to have this opportunity to share the amazing community we live in.





We maintain reports on visitor statistics in several areas

The Chamber collects the Newport Room Occupancy Report

The Chamber purchases the Dean Runyon Travel Impact Study for Newport

Research & Statistics

The Chamber receives the Travel Oregon lodging report

The Chamber tracks room tax collections that allow us to identify trends in occupancy ebb and flow and average daily rates. This information is provided by The City of Newport.

The Dean Runyon report will show money spent in Newport. A 2021 report is ordered, and we should have it by June.

Greater Newport Chamber of Commerce Events Supporting Tourism in Newport

Hospitality Training

- Develop and implement a dynamic guest service training and knowledge of Newport seminar for the hospitality industry front-line employees.
- "Know Your Newport" specializes in supporting and focusing on the importance of our front-line employees that are the face of Newport.
- The seminar includes a familiarization tour of Newport providing the history of Newport and its landmarks, attractions, and activities.

Treasures of the Sea

- This is our glass float program, it is a fun, engaging activity for businesses and visitors during the winter months.

Gift Baskets

- The Newport Chamber collects items to construct unique gift baskets to promote Newport. These baskets are often used at fundraisers, travel conferences, city conferences, mayor conferences, and more. Being used all over the state, it encourages people to spend the weekend in Newport.

Beautification Program

- The Chamber of Commerce has a beautification committee that recognizes the businesses in Newport that have gone the extra mile to make their business look beautiful.
- Whether that is a recent remodel, upgraded landscaping, or just always doing a good job at keeping their business front appealing in Newport, the Chamber recognizes these businesses monthly at Chamber Luncheons and in our Newsletter. We also give them a plaque to hang in their business.



Newport Seafood & Wine Festival

- The Chamber of Commerce produces the annual Newport Seafood & Wine Festival which draws nearly 20,000 visitors when held in the traditional fashion.
- This event is held in February each year to infuse a much-needed financial boost to our economy during the slowest time of the year.
- Over 20 local non-profit organizations work various jobs at the Newport Seafood & Wine Festival, it is often their largest fundraiser of the year.
- Due to the COVID-19 worldwide pandemic, the traditional in-person event has not taken place. In 2021, the chamber staff got creative and sold wine and seafood baskets online, with a contactless pick-up of these on the weekend that would have been the traditional festival weekend. The people picking up their baskets were still coming to Newport to enjoy their own version of the festival in their hotel rooms, vacation rentals, and homes.
- In 2022, the event was planned to take place with a scaled-back version. In January 2022 with the increase of the Omicron variant of COVID-19. The Chamber made the extremely hard decision to cancel the in-person event and create a celebration series that attendees could participate in safely. We created the Newport Seafood & Wine Festival tasting trail, it was a massive success and well received by locals, business owners, and attendees.



The Tourism Program as outlined in this report is funded by both the Chamber and the City through our Contract for Services. The allocation of those funds is listed here as follows:

1) Visitor Center Program

Visitor Center/Visitor Information -Visitor Web Page-Social Media
Contract for Services Allocation..... \$43,762
Chamber Funding Match.....\$49,349 Total..... \$93,111

2) Tourism Development Program

Destination Newport Committee Support/Sales Mission/Trade Shows/
Industry Collaboration/ Media Support
Contract for Services Allocation..... \$39,956
Chamber Funding Match.....\$48,058 Total.....\$85,015

3) Tourism Fulfillment Program

Research/Statistics/Training/Staffing/Postage/Fulfillment/Program
Maintenance
Contract for Services Allocation..... \$98,782
Chamber Funding Match.....\$120,154 Total.....\$218,936

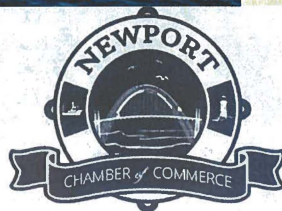
ADDITIONAL CHAMBER TOURISM PROGRAM COSTS

Beautification Program \$1,950
Seafood and Wine Festival \$503,350

In Summary:

The Chamber of Commerce has developed and maintains multifaceted programs for tourism development, promotion, and fulfillment that are designed to attract visitors to Newport and increase the frequency and duration of those visits. The investment made by the City is leveraged by a similar investment of the Chamber, which is unique to other City contracts, providing a more comprehensive approach and an increased opportunity for success in carrying out the scope of work and achieving goals.

Total City Contract \$182,500
Total Chamber Investment \$217,561 (approximate annual)
Total Tourism Promotion and Development \$400,061



THANK YOU

We appreciate your time and consideration the
Greater Newport Chamber of Commerce is
prepared to continue providing the top-notch
service that we have done throughout the years

Support letters and documents are attached.



May 16, 2022

Newport City Council
169 SW Coast Highway
Newport, OR 97365

RE: Support for Newport Area Chamber of Commerce

Members of the Council:

On behalf of the Oregon Tourism Commission (dba Travel Oregon), it is a pleasure to provide a letter of support for the Newport Area Chamber of Commerce. Travel Oregon's vision is a better life for all Oregonians through strong, sustainable local communities that welcome a diversity of explorers. This includes enhancing economies throughout the state to help communities better leverage the state's \$10.9 billion tourism industry. On the Central Oregon Coast, visitors spend \$852.7 million in the region with approximately 8,030 people directly employed in the tourism industry.

In Lincoln County alone, visitors to the area generate more than \$605.1 million in economic impact for local communities, which leads to 6,060 employment opportunities for local residents. Prior to 2020, Oregon's tourism economy saw ten consecutive years of growth in visitor spending and employment. The COVID-19 pandemic and other externalities have impacted that growth, but much like the rest of the state, Lincoln County is showing steady recovery with visitor spending up almost 30% compared to 2020. This rebound in visitor spending is largely attributed to the close collaboration between Newport Area Chamber of Commerce, Oregon Coast Visitors Association and Travel Oregon and will be critical for continued economic recovery. Working together allows us to strategically leverage each other's efforts, in turn maximizing the benefits for the Newport community.

We are honored to work alongside such innovative and enthusiastic partners. Continuing to invest in Newport Area Chamber of Commerce will generate sustainable economic benefits for the local community by strengthening the local tourism industry while also enhancing local livability.

Thank you for this opportunity to share our support for the Newport Area Chamber. We appreciate everything you do for Newport County residents and visitors. Please do not hesitate to reach out if I can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "TODD DAVIDSON".

Todd Davidson
CEO, Travel Oregon



May 19, 2022

Spencer Nebel, City Manager
City Council Members

RE: Support for the Newport Chamber of Commerce

Having been involved in the tourism business in Newport for 22 years (18 as the GM of the Hallmark Resort Newport and the last four as Hallmark CEO), I have been extremely pleased with the job the Newport Chamber has done running the visitor center. During the many years I served on the Destination Newport Committee, I had the opportunity to personally visit the Visitor Center multiple times and see the Chamber team in action. They were always friendly, professional, and extremely knowledgeable.

As you know, this contract is about much more than the Visitor Center. In reviewing the scope of services in the RFP, it is clear that the Chamber is uniquely qualified to fulfill this broad scope of work. The Newport Chamber has the full support of Hallmark Inns & Resorts in continuing to execute this vital work, as they have for the past 30+ years, on behalf of the City, the tourism industry, and the visitors to the Newport community.

Sincerely,
HALLMARK INNS & RESORTS

A handwritten signature in dark ink, appearing to read 'Ric Rabourn', with a stylized flourish at the end.

Ric Rabourn
President & CEO





Greater Newport Chamber of Commerce

555 SW Coast Highway . Newport, Oregon 97365
(541) 265-8801 . Fax: (541) 265-5589 . 1-800-262-7844
www.newportchamber.org

Mayor Sawyer, City Manager Spencer Nebel, and Newport City Council,

I am writing this letter in support of the Greater Newport Chamber of Commerce to service the city's tourism contract. The Chamber has successfully held the contract for the City's tourism for over 30 years. Unlike other organizations the Chamber's sole purposes is to promote tourism, therefore available fulltime. They attend continental and international trade shows to bring tourists to Newport. Not only do they specialize in tourism, but they are also knowledgeable, professional, and welcoming.

In May of 2021, The Chamber of Commerce invested \$30,000 in upgrades to modernize the visitor center, making it more enticing for visitors. Our location on Hwy 101, provides visibility and easy access to the public.

Along with highlighting member and non-member businesses by displaying their brochures, the chamber mails out information packets to people looking to visit or relocate to Newport.

Over my many years of being involved with the chamber, I have witnessed the staff work diligently for the benefit of the entire community. They are passionate about their work and have 30 years of established commitment in fulfilling their contract with the City of Newport.

The Board of Directors asks that you award this contract to the Newport Chamber of Commerce as they will continue to promote our tourist and business community, as they have done for the past 30 years.

Sincerely,

Greater Newport Chamber of Commerce President

Hello Judy,

I am sending this email to show our support for the Newport Chamber of Commerce to continue to hold the contract for the Visitors Center in the City Newport. The Newport Chamber of Commerce has held this contract for over 30 years and do a great job running the Visitors Center in Newport. I would like to see this continue moving forward.

Thank you!

Eric Seil

General Manager

Hallmark Resort Newport

Georgie's Beachside Grill

W: hallmarkinns.com/newport

E: eseil@hallmarkinns.com

Direct: 541-574-6860



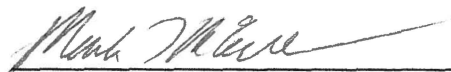
AMENDMENT TO LEASE OF BUSINESS PREMISES

Findings:


1. The City of Newport, a municipal corporation and political subdivision of the State of Oregon, hereinafter called "Lessor," and the Greater Newport Chamber of Commerce, an Oregon non-profit corporation in good standing, hereinafter called "Lessee," entered into a lease for business premises, for use as office space for the Greater Newport Chamber of Commerce, on June 1, 1988.
2. The lease between the Lessor and Lessee was for a term of twenty (20) years, from June 1, 1988 to and including June 1, 2008.
3. The lease contained an option for an extension of the lease for an additional consecutive term of ten years. This option was exercised, and the extended lease has an expiration date of June 1, 2018.
4. The Lessee desires to make repairs to the building, including the replacement of the roof, at a considerable expense to the Lessee, and the Lessee has requested an additional ten year extension to the lease prior to making this substantial investment.
5. If the request is granted, all other terms and conditions contained in the Agreement for Lease of Business Premises, dated June 1, 1988, shall be applicable to this amendment to the Lease, and remain unchanged and fully effective.
6. If the request is granted, the lease would be extended for ten additional years and expire on June 1, 2028.

Based on these findings,

The Agreement for Lease of Business Premises between the City of Newport and the Greater Newport Chamber of Commerce, dated June 1, 1988, is amended to extend the expiration date of the Agreement to June 1, 2028.



Mark McConnell, Mayor



President, Greater Newport
Chamber of Commerce

8/27/12

Date Signed

8/22/12

Date Signed

AGREEMENT FOR LEASE OF BUSINESS PREMISES

THIS AGREEMENT, made and entered into as of the 1st day of June, 1988, by and between the CITY OF NEWPORT, a municipal corporation and political subdivision of the State of Oregon, hereinafter called "Lessor", and THE GREATER NEWPORT CHAMBER OF COMMERCE, an Oregon non-profit corporation in good standing, hereinafter called "Lessee",

W I T N E S S E T H:

In consideration of the covenants, agreements and stipulations herein contained on the part of the Lessee to be paid, kept and faithfully performed, the Lessor does hereby lease, demise and let unto the said Lessee those certain premises, AS IS, situated in the County of Lincoln, State of Oregon, more particularly described as follows:

A tract of land lying in the northwest quarter of Section 8, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon, more particularly described as follows:

Beginning at a point in the centerline of Highway 101, said point being Station 170+57.9 P.S.C. of a 3 deg. 30' curve left with a central angle of 92 deg. 43'; thence south 43 deg. 43' east along the radius line of said curve a distance of 40 feet to a point on the property line of Newport City Park, said point being the true point of beginning; thence south 63 deg. 56' east a distance of 83 feet; thence south 26 deg. 04' west 66 feet, more or less, to the northerly line of Fall Street; thence northwesterly along the northerly line of Fall Street to its intersection with the easterly line of U. S. Highway 101; thence northeasterly along the easterly line of U. S. Highway 101 to the true point of beginning.

Subject to:

- 1. The rights of the public in and to that portion of the herein described property lying within the limits of public roads, streets or highways.**

2. Any real property taxes (the property has previously been in the possession of the Lessee, and the property is believed to be exempt from real property taxes by reason of the status of Lessee, but such taxes, if any shall be assessed, are and shall continue to be the responsibility of Lessee).

3. Any right, title, interest, claim or encroachment as might be disclosed by an inspection or survey of the premises, or by reasonable inquiry.

4. A judgment entered against the City of Newport in Lincoln County Circuit Court Case No. 840333 in favor of Marilyn K. Moxness; it is the understanding of the parties that the Lessor is entitled to indemnification from the State of Oregon on account of such judgment, and in any event, that the judgment is subject to payment and indemnification by the insurer for the City of Newport, if the same is for any reason not paid by the State of Oregon. It is agreed and understood that, as between the Lessor and the Lessee, the Lessor shall be responsible for said judgment, and shall not permit any interference with the Lessee's right of occupancy hereunder by reason of said judgment.

TO HAVE AND TO HOLD the said described premises unto the said Lessee for a term of twenty (20) years from June 1, 1988 to and including 12:01 a.m., June 1, 2008, at and for a rental of \$1.00 per year. It is understood that the rental hereby reserved is less than the fair rental value of the premises, and the premises are made available to the Lessee at reduced rental in consideration of the services which the Lessee shall, and hereby agrees to, provide to and for the benefit of the City of Newport, including but not necessarily limited to the provision of a travelers' information service in the City, the promotion of business and tourism within the City,, the promotion of economic development within the City, the provision of information packages to persons interested in establishing a business or residence within the City, attendance at trade fairs and similar events to promote the City, and other similar and related activities as the

parties may from time to time agree. In the event that the Lessee shall no longer continue to provide such services, or shall discontinue the provision of a substantial part of such services, the rental hereunder shall be adjusted accordingly, giving due consideration to the fair rental value of the land and the fair value of whatever portion of such services as are being provided by Lessee. If the parties are unable to agree, the rental shall be determined by arbitration according to the rules of the American Arbitration Association then in effect, or as the parties otherwise may agree.

Lessor also hereby grants to the Lessee the right, privilege and option of extending the aforementioned lease for one additional consecutive term of ten (10) years. The option to extend the term hereof may be exercised by notice in writing to the Lessor not less than thirty (30) days prior to the expiration date of the within lease. Such renewal option is available only in the event and upon condition that the lease shall remain in full force and effect and that the Lessee shall not, neither at the time such renewal option is exercised nor at the time such renewal term is to commence, be in default with respect to any obligation or requirement on the part of the Lessee to be performed hereunder.

In consideration of the leasing of said premises and of the mutual agreements herein contained, each party expressly covenants and agrees to and with the other as follows:

1. ACCEPTANCE OF LEASE:

Lessee accepts said lease and agrees to pay to the order of Lessor the rental above stated for the full term of this lease at the times and in the manner aforesaid. It is understood that the Lessee takes the premises "as is," subject to all faults and defects. Lessee agrees to perform such repairs and renovation as may be necessary to maintain the improvements in a safe and sturdy condition. Lessee assumes all risks associated with the use of the premises in any manner.

2. USE:

Lessee is hereby authorized to use the leased premises as the business office for the operation of a Chamber of Commerce and activities directly related thereto, including tourist information, and for no other purpose, without the Lessor's express, written consent in advance obtained. Lessor shall have no obligation to grant consent for any other use (inasmuch as this lease is entered into in consideration of the public need for such a facility, and for the services to be provided as mentioned above, and not otherwise), except as otherwise provided in Section 7.A. It shall be an obligation of Lessee hereunder to use the premises for such purposes and to keep the premises open for such purposes on a full-time, regular basis.

3. LIMITS ON USE:

Lessee will not make any unlawful, improper or offensive use of said premises; it will not suffer any strip or waste thereof; it will not permit anything to be done upon or about said premises in any way tending to create a nuisance.

4. COMPLIANCE WITH LAW:

Lessee shall comply at Lessee's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting the use of said lease premises.

5. TAXES, UTILITIES & OTHER FEES:

Lessee shall promptly pay for all water, heat, light, power and other services or utilities used in the leased premises during the term of this lease and all personal property taxes on all personal property located on the premises during the Lessee's occupancy thereof.

Lessee shall also pay all taxes, charges and assessments which now or hereafter may be levied upon the real property or improvements during the term of the lease or as a consequence of the Lessee's occupancy thereof, promptly when the same are levied and assessed and before the same shall become delinquent.

It is expressly understood that this lease is intended to be a net, net, net lease for the benefit of Lessor, and it is the intent of the parties that all costs and expenses associated with the property shall be borne by Lessee and not by Lessor.

Lessee will promptly deliver to Lessor receipts or other satisfactory evidence of all payments required hereunder.

6. FIRE INSURANCE:

Lessee agrees to insure the improvements on the leased premises against loss by fire, vandalism or other casualty, with extended coverage, in a company or companies satisfactory to the Lessor, for the replacement value thereof, and both the Lessor and the Lessee shall appear as named insureds under such policy, as

their respective interests shall appear. Any such policy shall provide that Lessor shall receive not less than fifteen (15) days notice prior to any cancellation or amendment of the policy. Lessee shall provide to Lessor a copy of the policy and a certificate evidencing that such insurance is in effect.

Lessor may, at its option, obtain its own fire insurance coverage at Lessee's expense, or, also at its option, may make any payment due for the fire insurance coverage provided by Lessee hereunder, in the event Lessor shall receive notice of intended cancellation of Lessee's fire insurance coverage, whether for non-payment of premium or otherwise, and all amounts so paid by Lessor shall immediately be due from Lessee to Lessor.

Since it is contemplated that the Lessee will incur debt to fund the improvements contemplated in Section 7.a., the holder of any such debt may be named as a loss payee, to the extent required by any applicable security instrument.

7. REPAIRS AND IMPROVEMENTS:

Lessee hereby agrees to maintain and keep the premises and all improvements thereon in good order and repair during the entire term of this lease at Lessee's own cost and expense. Lessee further agrees that it will make no alterations, additions or improvements to or upon said premises without the written consent of the Lessor first being obtained. However, such written consent shall not be unreasonably withheld by the Lessor. The Lessor shall not be required to make any repairs whatsoever. The Lessee's responsibility to maintain the premises shall include all necessary repairs and maintenance to the entirety of the premises,

and all improvements thereon. Lessee shall maintain the premises in a neat, clean and safe condition.

Any building improvement constructed on the premises shall be considered a part of the real property, and the property of Lessor. Any repairs, improvements or additions shall immediately be and become a part of the building, and shall be the property of the Lessor.

7.A. SPECIAL IMPROVEMENTS/ENCUMBRANCE FOR IMPROVEMENTS:

It is understood that the premises are presently occupied by the Lessee, but the current improvements are inadequate for the purposes of the Lessee. Accordingly, subject to Lessor's approval of the plans and specifications and to the financing arrangements, Lessee shall have the right to remove the existing improvements and construct new improvements on the premises which are adequate for the Lessee's purposes.

In that regard, and subject to the reasonable approval of Lessor, Lessee may encumber its interest in this lease (but not the interest of the Lessor) to obtain the necessary financing to construct such improvements. Lessor further agrees that, in the event of default by the Lessee upon such obligation (to the extent approved by Lessor in accordance with the foregoing), Lessor will permit the holder of such encumbrance to take possession of the premises and sublease the premises to any responsible tenant for any reasonable purpose which will allow the holder of such encumbrance to recover the balance due on its obligation, or so much thereof as is reasonably practicable. The holder of such encumbrance may thus take possession of the premises for the

remainder of the lease term and any renewal authorized herein, or for such reasonable period of time as should permit the holder of such encumbrance to recover the obligation owed to it, together with interest as agreed and any reasonable expenses of repossession, whichever period is less.

In the event that the holder of any such encumbrance, or any successor, shall take possession of the premises as above provided, such possession shall be subject to the obligation to pay a fair rental value to the Lessor herein for the land (but not for the improvements, since the improvements are constructed by the Lessee) as provided in the rental provision above.

However, all such rights of the holder of such encumbrance shall be subject to the obligation of such holder to notify Lessor of any such default, and Lessor shall, at its option and discretion, have the right to cure any such default and make the payments on such encumbrance and cancel the lease agreement, in lieu of permitting the holder of the encumbrance to assume possession of the premises and the lease.

8. INSPECTION:

The Lessor, its agents and representatives, upon advance notice to Lessee, may enter upon or into said premises for the purpose of examining the condition thereof and for any other lawful purpose.

9. TRANSFER OR SUBLEASE:

Lessee will not assign, transfer, pledge, hypothecate, surrender or dispose of this lease, or any interest therein, or permit any other person or persons whomsoever to occupy the

premises, without the written consent of the Lessor first being obtained in writing. If permitted, any such transfer shall not serve to release Lessee with respect to any obligation hereunder, and any such assignee, transferee or sublessee shall be deemed, by acceptance of the benefits of such assignment, transfer or sublease, to have assumed and agreed to perform, jointly and severally with any other party so obligated, the Lessee's obligations hereunder, and Lessor may require written acknowledgement of the assumption of such obligation as a condition of such assignment. Lessor shall have no obligation to grant such consent, since the lease is entered into in contemplation of the public benefit of Lessee's intended activities. However, Lessee shall not unreasonably withhold consent to a sublease in the event that the holder of any debt secured by the Lessee's interest herein shall repossess the premises and desire to enter into a sublease as mentioned in Section 7.A., subject to the obligation to pay a fair rental value for the land, as hereinabove provided. In no event shall the fair rental value of the land, determined on an annual basis, be less than an amount equal to 10% of the fair market value of the said land.

10. LIENS:

Lessee shall keep the demised premises free from all liens of every kind and description caused, incurred, permitted or suffered by any act or omission of Lessee, and Lessee shall not have the right or authority to incur any mechanic's, laborer's,

materialmen's or any other liens, except as provided in Section 7.A., above.

11. OBSTACLES:

At all times Lessee shall keep the sidewalks in front of the demised premises free and clear of ice, snow, rubbish and obstruction of every sort.

12. LIABILITY:

Lessor shall not be responsible or liable in any way for the injury or death of any person or damage to any property caused in or about the premises, nor shall Lessor be liable for any damage or loss suffered by the business or occupation of Lessee arising or resulting from any such accident or injury to goods or persons happening in or about the premises. Lessee does hereby covenant to save, hold and defend Lessor harmless from any claim, loss, damage or liability resulting from or arising out of any such accident or injury, or in any manner arising from or as a result of the Lessee's use or occupancy of the premises, or that of any employee, representative or invitee of Lessee, and in the event of any suit or action for damages, claim or penalties being brought by any person whomsoever, Lessee agrees at its own cost and expense to defend Lessor against any such suit or action and any and all appeals thereof and to satisfy and discharge any judgment which may be awarded against Lessor on account thereof. Lessee will at all times indemnify and hold harmless the Lessor, its agents and employees, against any and all actions or causes of action, claims, demands, liabilities, losses, damages or expenses

of any kind or nature which Lessor shall or may at any time sustain or incur by reason of Lessee's operations hereunder.

13. LIABILITY INSURANCE:

Lessee further agrees at all times during the term hereof, at Lessee's own expense, to maintain, keep in effect, furnish and deliver to the Lessor liability insurance policies in form and with an insurer satisfactory to the Lessor insuring both the Lessor and the Lessee against all liability for damages caused by the negligence of the Lessee, its employees or agents, to persons or property in or about said leased premises; the policy of liability insurance shall have a single aggregate policy limit of not less than \$500,000.00.

Lessee shall provide to Lessor copies of the policy of liability insurance required hereunder, together with a certificate or other satisfactory proof that such policy or policies are in full force and effect. Such policy or policies shall provide that the coverage thereunder shall not be cancelled or amended without at least fifteen (15) days notice to Lessor.

The limits of such policy shall be subject to change in the event of changes in the Oregon Tort Claims Act increasing or reducing Lessor's potential liability.

14. DESTRUCTION OF PREMISES:

In the event of the destruction of the improvements on the real property, the proceeds of any policy of casualty insurance shall be used to restore the premises to their original condition, unless the parties shall otherwise agree. Under no circumstances shall Lessor have any obligation to repair or

replace any part or portion of the premises so destroyed, nor shall the destruction of the premises operate to abate the rent payable hereunder.

15. CONDEMNATION:

In case of the condemnation or appropriation by any public or private corporation under the laws of eminent domain of a part of the premises not causing interference with the Lessee's use of the premises to the extent of rendering the remainder of the premises unfit for the purposes intended hereunder, the lease agreement shall continue in effect and the rent payable hereunder shall be abated in proportion to the taking, and the award for such taking shall be apportioned between the parties as the interests of the parties shall appear.

In case of the condemnation or appropriation by any public or private corporation under the laws of eminent domain of all or any part of the demised premises causing interference with the Lessee's use of the premises to the extent that the remainder of the premises cannot reasonably be used for the purposes hereunder intended, this lease agreement shall be terminated and the condemnation award shall be apportioned between the parties as the interests of the parties shall appear, with the Lessor to receive any and all portions of any award or settlement made or given with respect to the land.

16. HOLDING OVER:

Strict and literal compliance with the terms and conditions provided for any renewal of this lease shall be a condition precedent thereto, and in the event the Lessee shall for

any reason hold over after the expiration of this lease, other than pursuant to a valid renewal hereof, such holding over shall not be deemed to operate as a renewal or extension of this lease but shall create a tenancy which may be terminated at will at any time by the Lessor.

17. NOTICES:

Any notices required by the terms of this lease to be given by one party to the other, or desired so to be given, shall be sufficient if the writing is in a sealed envelope, deposited in the United States registered or certified mail with return receipt requested and with postage fully prepaid and addressed to the other party at the following address, or such other address as to which either party may have properly notified the other:

LESSOR:

City Manager
City of Newport
810 S. W. Alder St.
Newport, OR 97365

LESSEE:

Newport Chamber of Commerce
555 S. W. Coast Hwy.
Newport, OR 97365

18. STRICT PERFORMANCE:

Full, strict, complete and literal performance, and the time thereof, are of the essence of this agreement; any waiver by the Lessor of any breach of any covenant or agreement herein contained to be kept and performed by the Lessee shall not be deemed or considered a continuing waiver and shall not operate to bar or prevent Lessor from any right or remedy for that breach or for any succeeding breach, either of the same condition, covenant or agreement, or of any other.

19. ATTORNEY'S FEES:

In the event either party to this lease shall be required to retain the services of an attorney to enforce any obligation under this lease agreement, such party shall be entitled to recover from the other reasonable attorney's fees so incurred, whether or not any suit or action shall be commenced. In the event either party to this lease shall commence any suit or action to enforce any obligation hereunder, the prevailing party shall be entitled to recover from the other such party's reasonable attorney's fees so incurred, including any appeal.

20. SURRENDER OF PREMISES:

At the expiration of said term or upon any sooner termination of this lease, or upon the termination of any extension hereof, or upon the termination of any tenancy created hereafter, the Lessee will quit and deliver up said leased premises and all erections or additions to or upon the same, broom clean to the Lessor, or those having Lessor's estate in the premises, peaceably, quietly and in good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements, to the extent covered by insurance, alone excepted, as the same are now in, or such better condition as the premises hereafter may be put in, or may be required, by terms of this lease, to be put in.

Any holding over shall not result in a renewal or extension of the lease agreement, but shall create only a tenancy at sufferance. During the term of any such tenancy at sufferance, Lessee shall continue to be obligated to pay and perform, and to

be liable for payment and performance of, each and every obligation and requirement under this lease agreement, including but not limited to monthly rents determined in accordance with the terms of this lease agreement and additional payments pursuant to section 5 of the lease agreement as may come due until such time as such tenancy at sufferance is terminated as provided in ORS 91.040, or otherwise.

Failure of Lessee to remove any furniture, equipment or other personal property belonging to Lessee which Lessee may remove under the terms of this agreement shall constitute a failure to vacate. However, nothing herein contained shall be construed to limit Lessor's right to expel the Lessee and Lessee's effects upon termination of the lease term or any renewal thereof.

21. SUCCESSORS:

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend and inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and assigns of such parties. However, this provision shall not be construed to permit any transfer of the rights of the Lessee in derogation of any term or provision of this lease agreement requiring the consent of the Lessor.

22. NEAT AND PRESENTABLE CONDITION:

Lessee agrees at all times during the term of this lease to maintain the leased premises in a clean, neat, orderly and presentable condition.

23. INTEGRATION:

This is the complete and entire agreement between the parties, and supersedes any other or prior agreement. Any modification hereof shall be effective only if reduced to writing and subscribed by the parties sought to be bound thereby.

24. WAIVER:

Time and strict, complete and punctual performance of each and every obligation on the part of the Lessee to be performed are of the essence of this agreement. Failure of Lessor to enforce any term, provision or requirement of this agreement, or to exercise any remedy on account of Lessee's failure to perform the same, shall not constitute a waiver of such failure or of the provision itself.

25. DEFAULT:

The Lessee's failure to pay the rent provided hereunder, or any portion thereof, for a period of twenty (20) days after notice of failure to do so, shall be a default and shall operate to terminate the tenancy of the Lessee hereunder without waiver of any right of Lessor, including the right to be compensated for Lessor's damages, including but not limited to the rent and other performance due to Lessor hereunder. No notice to quit or to pay such rent shall be required and the holding of such tenant thereafter shall be wrongful. However, if the Lessor, after such default in payment of rent, accepts payment thereof, the lease is reinstated for the full term hereof, subject to termination by subsequent defaults in payment of rent or to termination for other default as hereafter provided. Acceptance by Lessor of payment of

arrearage of rent, or a portion thereof, shall not reinstate the lease unless the Lessee shall pay or perform, all sums the payment of which is in arrears and all other defaults then existing.

The Lessee shall not be considered in default hereunder, and this lease shall not terminate, by reason or any act or omission of the Lessee in breach of any requirement hereof, (excepting only failure to pay rent or other sums required to be paid to the Lessor hereunder), until and unless Lessor shall give to the Lessee notice of such act or omission in breach of this lease agreement, and Lessee shall fail to cure the same within twenty (20) days after such notice.

With respect to all matters relating to the condition of the premises, if the act or omission complained of by Lessor may not reasonably be cured within twenty (20) days, the Lessee shall nonetheless not be deemed in default hereunder if the Lessee shall commence the cure of such breach within ten (10) days following receipt of such notice and shall diligently prosecute such cure to completion, such cure in any event to be completed within ninety (90) days after receipt of such notice.

Notwithstanding the foregoing, however, this lease agreement shall not terminate as to the interest of any mortgagee of the Lessee's interest herein, unless such mortgagee shall also be given such notice as is required above to be given to the Lessee, and the mortgagee shall have the same right to cure the default as would the Lessee. As used herein, the term "mortgagee" shall mean any person, corporation, joint venture or other entity holding a first security interest in the interest of the Lessee

hereunder, as contemplated under Section 7.A., above, who has notified the Lessor in writing of such first security interest, has requested such notice of default and has provided to Lessor an address to which such notice may be sent. Such notice may be given to such mortgagee in the manner provided in Section 17, Notices.

26. REMEDIES:

In the event the lease shall terminate for default, as aforesaid, or by reason of any other default as a matter of law, or for any other reason, and if the Lessee shall fail to immediately surrender possession of the leased premises, in any of such cases, the Lessor or those having Lessor's estate in the premises, lawfully and at the option of the Lessor, immediately or at any time thereafter, without demand or notice, may enter into and upon the demised premises and every part thereof and repossess the same as of Lessor's former estate and expel Lessee's effects at the expense of Lessee, forcibly if necessary, and store the same and/or lock the demised premises, all without being deemed guilty of trespass or other wrongful act, and as a remedy pursuant hereto and not in derogation hereof, and without prejudice to any other right or remedy which otherwise might be used for arrears of rent, breach of this agreement, or otherwise.

In addition, if the Lessor shall retake possession of the premises, Lessee shall pay to Lessor all of the reasonable costs of reentry and reletting, including but not limited to the cost of any cleanup, refurbishing, removal and storage of Lessee's property and fixtures and any other expense occasioned by Lessee's

failure to quit the demised premises upon termination or to leave them in the required condition, any cost of repair to the building, attorneys' fees, court costs, brokers' commissions and advertising costs.

In the event of termination for breach, Lessor may, at its option, require the Lessee to pay to the Lessor:

a. The worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this lease;

b. The worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could reasonably have been avoided;

c. The worth, at the time of the award, of the amount by which the unpaid rent for the balance of the lease after the time of the award exceeds the amount of the loss of rent that Lessee proves could reasonably have been avoided.

d. Any other amount, and court costs, including attorneys' fees, necessary to compensate Lessor for all detriment proximately caused by Lessee's default.

All of the Lessor's rights and remedies hereunder shall be cumulative, one with the other, and with any other right or remedy as may now or later exist by force and effect of law or otherwise.

Lessor, at any time Lessee has failed to perform a provision hereof, can provide such performance at Lessee's cost,

and such costs or amounts paid shall be a debt due immediately from Lessee to Lessor.

27. GRAMMATICAL CONSTRUCTION:

In construing this lease, it is understood that the Lessor or the Lessee may be more than one person, and if the context so requires, the singular pronoun may be taken to mean and include the plural, the masculine may include the feminine and the neuter, and vice versa, and generally all grammatical changes shall be made, assumed, and implied as are necessary to carry out the intent hereof and to make the provisions of this agreement apply equally to corporations as to individuals.

IN WITNESS WHEREOF, the parties have executed this instrument in duplicate to be effective as of the day and year above set forth, and any corporate signature is affixed hereto only pursuant to the authority of the board of directors or other governing body thereof, and the execution hereof constitutes a warranty of such authority and of the authority of the Lessor and of the Lessee to make and enter into this agreement.

LESSOR:

CITY OF NEWPORT

By: Mark Ellison

Mayor

Attest:

Patricia P. Beards
City Recorder

LESSEE:

THE GREATER NEWPORT
CHAMBER OF COMMERCE, AN OREGON
NON-PROFIT CORPORATION

By: Burton L. Lippman

President

By: Lybert Martin

Secretary

EXHIBIT C
Oregon Public Contracting Requirements
ORS CHAPTERS 279B AND 279C REQUIREMENTS

- (1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1); 279C.505(1)(a)
- (2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2); 279C.505(1)(b)
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3); 279C.505(1)(c)
- (4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279B.220(4); 279C.505(1)(d).
- (5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid. ORS 279C.515
- (6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1); 279C.530(1)
- (7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2); 279C.530(2)
- (8) Contractor shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3); 279C.520(3)
- (9) The Contractor must give notice to employees who work on this contract in writing,



either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2); 279C.520(2)

(10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430

(11) The contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.

(12) Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.

(13) Contractor certifies that it has not discriminated against minorities, women, service-disabled veterans, or emerging small business or disadvantaged business enterprises in obtaining any required subcontractors. ORS 279A.110

(14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120

