



July 16, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Personal/Professional Services Contract with
Travel Portland for the Portland Region RCTP Partner Agreement

Purpose/Outcome	Clackamas County Tourism & Cultural Affairs (CCTCA) is seeking approval for a two-year Personal Services Contract with Travel Portland as a Destination Management Organization (DMO) partner agreement in the Portland Region, Regional Cooperative Tourism Program (RCTP).
Dollar Amount and Fiscal Impact	Travel Portland will provide a budget of \$248,680 (\$124,340 annually) for CCTCA to use the State's lodging tax funds provided by the Oregon Tourism Commission (OTC) through Travel Portland to execute the Portland Region RCTP plan, as approved by OTC in June 2019 for the FY19-21 RCTP program of work.
Funding Source	Funding provided by the State of Oregon – Oregon Tourism Commission, from the State's 1.8% lodging tax collections, through Travel Portland as the fiscal agent/ contractor of the Portland Region. No County General Funds or County Transient Room Tax (TRT) are involved in the RCTP program.
Duration	Effective upon signature by the BCC, and continues through June 30, 2021.
Previous Board Action	CCTCA served as a Portland Region partner for the prior two-year Personal Services Contract agreement with Travel Portland for our share of the Portland Region RCTP funds.
County Counsel Review	This contract has been reviewed and approved by County Counsel on July 16, 2019.
Strategic Plan Alignment	Strategic Priority #2. Goal #8. - Strengthen our role in the Regional Cooperative Tourism Program (RCTP)
Contact Person	Jeannine Breshears, Marketing & Programs Manager - (503) 655-8419

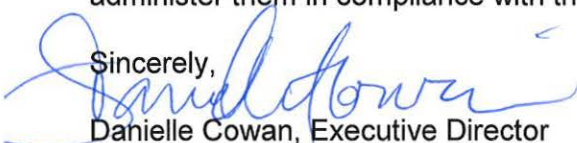
BACKGROUND:

Travel Portland successfully completed a request for proposal (RFP) process in early 2019 and was awarded the contract to serve as the fiscal administrator of the Portland Region for a new six-year term. Additionally, the Oregon Tourism Commission approved the FY2019-2021 RCTP regional work plan in June 2019. As a DMO partner in the Portland Region, our pro-rata share of the regional funds are distributed to the DMO to offset tourism program costs as they relate to Portland Regional work. CCTCA will comply with all RCTP guidelines and expend the Travel Oregon RCTP money in accordance with the approved RCTP plan.

The RCTP program is funded solely through the collection of the State's 1.8% lodging tax, and managed separately from the TRT collections to support the regional program of work as approved by Travel Oregon.

RECOMMENDATION:

Staff recommends approval of this contract agreement and authorizes CCTCA staff to receive RCTP funds and administer them in compliance with the Portland Region program.

Sincerely,

Danielle Cowan, Executive Director
Tourism & Cultural Affairs

**TRAVEL PORTLAND PERSONAL/PROFESSIONAL SERVICE CONTRACT
REGIONAL COOPERATIVE TOURISM PROGRAM PARTNER AGREEMENT**

This contract for professional services (“**Contract**”) number **RCTP-CCTCA-TP-2019-21** is between Travel Portland (“**Travel Portland**”) and Clackamas County, through the Department of Tourism & Cultural Affairs (“**Contractor**”). Travel Portland’s Contract Administrator for this Contract is identified in section 21.

1. Contract Term. This Contract is effective on the earlier of **July 15, 2019**, or the date it has been signed by Travel Portland and Contractor, and all required Travel Portland approvals have been obtained. This Contract continues through **June 30, 2021**, unless earlier terminated or extended by written, fully executed amendment. Contract termination does not extinguish or prejudice Travel Portland's right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Statement of Work; Consultant and Facilitation Services; Work Product; Deliverables. Contractor shall provide the services and deliver all associated deliverables (“**Work Product**”) described in **Exhibit A, Statement of Work (“Services”)**, which is attached and incorporated into this Contract.

3. Consideration.

3.1. As payment in full for Services, Travel Portland shall pay Contractor at the rates specified in Exhibit A.

3.2. Travel Portland will reimburse Contractor for reasonable and necessary travel and other expenses only if expressly provided in Exhibit A.

3.3. The maximum, not-to-exceed amount payable to Contractor under this Contract, including all payments pursuant to Section 3.1 and any allowable expenses pursuant to section 3.2, is **\$124,340.00**. Contractor shall not submit invoices for and Travel Portland is not obligated to pay, any compensation in excess of this amount. If this maximum amount is increased by Contract amendment, the amendment must be fully effective before Contractor performs any Services subject to the amendment.

3.4. Travel Portland is not obligated to pay Contractor for any Services unless such Services are complete, conform to the Contract specification, and otherwise conform to the warranties and other terms of this Contract.

3.5. Contractor shall submit invoices no more than twice yearly to Travel Portland’s Contract Administrator for Services performed. Contractor shall describe in each invoice all Services performed, the dates of performance, and by whom such Services were performed, and shall itemize and explain all expenses for which Contractor claims reimbursement.

4. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence: this Contract less all exhibits, Exhibit A: Statement of Work), Exhibit B: Insurance Requirements and Exhibit C: Approved RCTP Plan. Exhibits A – C are attached and incorporated into this Contract.

5. Independent Contractor; Responsibility for Taxes and Withholding.

5.1. Contractor performs all Services as an independent Contractor. Contractor is responsible for determining the appropriate means and manner of performing the Services.

5.2. Contractor shall pay all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Travel Portland will not withhold from such compensation or payments any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

6. Subcontracts and Assignment; Successors and Assigns. Contractor shall not enter into any subcontracts for any of the Services required by this Contract without Travel Portland's prior written consent. Travel Portland's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract. The provisions of this Contract shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any. Contractor shall not assign, delegate, or transfer any of its rights or obligations under this Contract without Travel Portland's prior written consent.

7. No Third-Party Beneficiaries. Travel Portland and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or is construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

8. Funds Available and Authorized Payments. Contractor will not be compensated for work performed under this Contract by any other agency. Travel Portland certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within Travel Portland's current biennial appropriation or limitation. Contractor understands and agrees that Travel Portland's payment of amounts under this Contract is contingent on Travel Portland receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow Travel Portland, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

9. Representations and Warranties.

9.1. Contractor's Representations and Warranties. Contractor represents and warrants to Travel Portland that:

9.1.1. Contractor has the power and authority to enter into and perform this Contract;

9.1.2. this Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable according to its terms;

9.1.3. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and according to standards prevalent in Contractor's industry, trade or profession; and

9.1.4. Contractor is and will at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services.

9.1.5. Contractor has all rights necessary in the Work Product to grant the rights to the Work Product required under this Contract and Travel Portland's use of the Work Product shall not infringe the copyright or other intellectual property or proprietary rights of any third party;

9.1.6. To the best of Contractor's knowledge, the photographic images and Travel Portland's authorized use of the images hereunder will not give rise to a claim by any persons depicted in the photographic images or by any third party of defamation, invasion of privacy, appropriation of likeness, unreasonable intrusion, public disclosure of private facts and holding up to a false light in the public eye;

9.1.7. All releases, permissions, and consents required in relation to the depiction of persons featured in the photographic images have been obtained for the purposes of Travel Portland's authorized use of the Work Product under this Contract;

9.2. Warranties cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

10. Ownership of Work Product. All Work Product is the exclusive property of the Contractor. Contractor hereby grants to Travel Portland a perpetual, non-exclusive license to use, reproduce, display, publish and create derivative works of the Work Product. Unless otherwise provided in the Statement of Work, Travel Portland's use of the Work Product includes the right for Travel Portland to sublicense photographic images to state and local government agencies and to industry partners who comprise the news media, tour operators, meeting planners and other authorized third parties ("Sublicensees").

11. Indemnity.

11.1. Indemnity. Contractor shall defend, save, hold harmless, and indemnify Travel Portland, and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney's fees, resulting from, arising out of, or relating to the alleged negligent or willful acts, omissions, or any breach of this Contract by the Contractor or its officers, employees, subcontractor, or agents under this Contract.

11.2. Control of Defense and Settlement. Contractor shall have control of the defense and settlement of any claim that is subject to sections 11.1; however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of Travel Portland, nor purport to act as legal representative of Travel Portland without first receiving from Travel Portland authority to act as legal counsel, nor shall Contractor settle any claim, action or suit on behalf of Travel Portland without the approval of Travel Portland. Travel Portland may, at its election and expense, assume its own defense and settlement in the event that Travel Portland determines that Contractor is prohibited from defending Travel Portland, or is not adequately defending Travel Portland's interests, or Travel Portland desires to assume its own defense.

12. Insurance. Contractor shall maintain the insurance coverage specified in Exhibit B, Insurance.

13. Termination.

13.1. Termination by Travel Portland for Convenience. At its sole discretion, Travel Portland may terminate this Contract for its convenience upon sixty (60) days written notice to Contractor.

13.2. Termination by Travel Portland for Cause. In addition to any other rights and remedies Travel Portland may have under this Contract, Travel Portland may terminate this Contract, in whole or in part, immediately upon written notice to Contractor, or at such later date as Travel Portland may establish in such notice, upon the occurrence of any of the following events:

13.2.1. Funding from federal, state, or other sources is not obtained and continued at levels sufficient to pay for Contractor's Services;

13.2.2. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that the performance of the Services under this Contract is prohibited or Travel Portland is prohibited from paying for such Services from the planned funding source;

13.2.3. Contractor no longer holds a license or certificate that is required to perform the Services; or

13.2.4. Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Services in conformance with the requirements and warranties provided herein, or so fails to pursue the Services as to endanger Contractor's performance under this Contract according to its terms, and such breach, default or failure is not cured within ten (10) business days after delivery of Travel Portland's notice or such longer period as Travel Portland may specify in such notice.

13.3. Termination by Contractor. Contractor may terminate this Contract if Travel Portland fails to pay Contractor any amount pursuant to the terms of this Contract, and Travel Portland fails to cure such failure within thirty (30) days after Contractor's notice of termination for nonpayment, or such longer period as Contractor may specify in such notice.

13.4. Contract termination pursuant to this section 13 shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. However, upon receive a notice of termination under this section 13, Contractor shall immediately cease all activities under this Contract, unless expressly directed otherwise by Travel Portland in the notice of termination. Further, upon termination, Contractor shall deliver to Travel Portland all documents, information, works-in-progress, Work Product, and other property that is or would be deliverables had this Contract been completed.

14. Confidentiality. Contractor acknowledges that Contractor and its employees or agent may, in the course of performing Services under Contract, be exposed to our acquire communication that is confidential, privileged communication not intended to be disclosed to third parties.

Contractor agrees that any Work Product created by Contractor and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract is deemed "Confidential Information" of Travel Portland. Confidential Information does not include information which is or becomes (other than by disclosure by Contractor) publicly known.

Contractor agrees to hold such Confidential Information in strict confidence and to not copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such information for any purposes whatsoever other than the provision of Service to Travel Portland. Contractor agrees to advise each of its employees and agents of their obligations to keep such information confidential.

15. Records Maintenance; Access. Contractor shall maintain all financial records relating to this Contract according to generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Travel Portland and its duly authorized representatives shall have access to such financial records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract,

whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

16. Compliance with Applicable Law. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract.

17. Limitation of Liabilities. Travel Portland and Contractor are not liable for (i) any indirect, incidental, consequential or special damages under this contract or (ii) any damage of any sort arising solely from the termination of this contract in accordance with its terms.

18. Force Majeure. Travel Portland and Contractor are not liable for delay or default caused by fire, riot, acts of God, terrorist acts or other acts of political sabotage, or war where such cause was beyond the reasonable control of Travel Portland or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

19. Survival. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections 1, 7, 8, 9, 10, 11, 13, 14, 15, 19, 24, and 25.

20. Time is of the Essence. Contractor agrees that time is of the essence under this Contract.

21. Notice. Except as otherwise expressly provided in this Contract, any notices between the parties that relate to this Contract must be given in writing, personal delivery, email, express courier, facsimile, or United States Postal Service, postage prepaid, to Contractor or Travel Portland Contract Administrator at the address or number set forth below, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any notice so addressed and mailed is effective five (5) days after the postmark date. Any notice delivered by facsimile or email is effective on the day the transmitting machine generates a receipt of a successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Travel Portland, Contractor must confirm by telephone call to Travel Portland's Contract Administrator, Travel Portland's receipt of any notice transmitted by facsimile. Any notice given by personal delivery is effective immediately if delivery is made to the following individuals:

If to Travel Portland:	If to Contractor:
<p>Megan Conway Senior Vice President of Communications and Regional Strategy Travel Portland 100 SW Main Street, Suite 1100 Portland, OR 97204</p> <p>(503) 275-9795 (voice) Email: megan@travelporland.com</p>	<p>Jim Bernard Chair, Board of Commissioners Clackamas County 2051 Kaen Road Oregon City, OR 97045</p> <p>(503) 655-8581 (voice) Email: bcc@clackamas.us</p>

22. Severability: The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms will not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

23. Counterparts: This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed constitutes an original.

24. Choice of Law; Designation of Forum; Federal Forum.

24.1. Choice of Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

24.2. Designation of Forum. Any claim, action, suit or proceeding (collectively, "Claim") between Travel Portland and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Multnomah County. Contractor hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

24.3. Federal Forum. Notwithstanding section 24.2, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon.

25. Merger Clause; Waiver. This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter of this Contract. There are no

understandings, agreements, or representations, oral or written, regarding this Contract that are not specified in this Contract. No waiver, consent, modification or change of terms of this Contract binds all parties unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, is effective only in the specific instance and for the specific purpose given. The failure of Travel Portland to enforce any provision of this Contract does not constitute a waiver by Travel Portland of that or any other provision.

26. Contractor Data and Certification.

26.1. Contractor Tax Identification Information. Contractor shall provide Contractor’s Social Security number or Contractor’s federal tax ID number and the additional information set forth below. Social Security Numbers provided pursuant to this Section will be used for the administration of state, federal and local tax laws.

Name (tax filing): Clackamas County

Address: 2051 Kaen Road
Oregon City, OR 97045

Citizenship, if applicable: Non-resident alien Yes No

Business Designation (check one):

Corporation Partnership Limited Partnership Limited Liability Company
Limited Liability Partnership Sole Proprietorship Other: County Government

Federal Tax-ID#: 93-6002286

Oregon State Tax ID #: N/A

Travel Portland may report the information set forth above to the Internal Revenue Service (IRS) under the name and social security number or taxpayer identification number provided.

26.2. Certification. The Contractor certifies and swears under penalty of perjury that: (a) the number shown above is Contractor’s correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not be notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) the individual is authorized to act on behalf of Contractor, has authority and knowledge regarding Contractor’s payment of taxes, and to the best of the individual’s knowledge, Contractor is not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax for Emergency Communications), 118 (Inheritance Tax), 314, (Income Tax), 316, (Personal Income Tax), 317 (Corporation Excise Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes and Tobacco Products) and the

elderly rental assistance program under ORS 310.630 to 310-706 and any local taxes administered by the Department of Revenue under ORS 305.620.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR

TRAVEL PORTLAND

By: _____

By: _____

Megan Conway

Title: _____

Title: Senior Vice President of Communications and Regional Strategy

Date: _____

Date: _____

EXHIBIT A
RCTP – PORTLAND REGION FY 2019-21

Contractor will provide Travel Portland with a **Regional Cooperative Tourism Program** strategy (“**RCTP Plan**”) using provided templates that outline sub-regional priority initiatives and intended future activities through investment of allocated funds. Initiatives and activities may include but are not limited to: branding, marketing, increasing domestic and international visitors, improving or expanding tourism product, supporting tourism business and economic development, destination management and improving visitor experiences in the region. Contractor will use state lodging tax funds provided by the **Oregon Tourism Commission** (“**OTC**”) to execute an approved RCTP Plan for the utilization of funds provided in this agreement.

STATEMENT OF WORK:

Contractor will:

- a. Develop and submit an RCTP Plan using OTC provided spreadsheets and templates for OTC review and approval. The plan will include budgets and other detail with particularity related to proposed investment. RCTP money will not be distributed until the Plan is approved by Travel Portland and OTC. Approved Plan and other documentation will be kept on file with Travel Portland and OTC and hereby incorporated into this agreement as Exhibit C.
- b. Comply with all RCTP guidelines, including requirements to convene stakeholder meetings to solicit RCTP Plan input and report out on approved RCTP Plan.
- c. Expend RCTP money in accordance with the approved RCTP Plan. Retain all invoices, expense documentation, receipts, marketing materials and other documentation related to implementation of the Plan.
- d. Maintain all above-mentioned documentation for a period of three (3) years and make such documentation available to Travel Portland, OTC and their authorized agents or auditors upon request.
- e. Provide mid-year and year-end progress and financial reports to Travel Portland by the established deadlines. Contractor will request, in writing, any needed extensions or clarification at least 1 week prior to the due dates of each report.
- f. Serve as a regional industry resource to Travel Portland and OTC on matters of importance to Oregon’s tourism industry, including providing local and regional policy information as needed and developing coalitions or community grassroots networks to disseminate information on matters of importance to Oregon’s tourism industry as appropriate.
- g. Convene meetings with local industry members as well as with regional leadership teams and other public and private partners to foster alignment with statewide and regional tourism strategy intended to optimize the economic impacts of tourism in the region.
- h. Work as a communication resource to Travel Portland and OTC to deliver OTC provided industry information, including distribution and response to “call-outs” for sales and development efforts, to local and regional industry members and key stakeholders. Contractor will from time to time, as requested, and when possible, solicit industry and

stakeholder feedback or input on OTC initiatives or other industry initiatives and provide information to OTC.

- i. Expend the state dollars provided through this agreement in a manner consistent with the approved RCTP Plan and budget. RCTP Plan modifications, including budget modifications of more than \$5,000.00, must be approved in writing in advance. Contractor may not use RCTP funds to retire any debt or to cover any costs incurred prior to the effective date of this agreement.
- j. Return to Travel Portland any funds remaining unspent as of June 30, 2021, for the purpose of depositing them into the Portland Region RCTP Strategic Investment Fund.
- k. As stated in section 10 of this agreement, all Work Product is the exclusive property of the Contractor. Contractor hereby grants to Travel Portland and OTC a perpetual, non-exclusive license to use, reproduce, display, publish and create derivative works of the Work Product.

BUDGET SUMMARY

Contractor will conduct work identified in this agreement with funds provided by Travel Portland as follows:

	2019-2020	BUDGET
	RCTP	\$124,340.00
	TOTAL	\$124,340.00

	2020-2021*	BUDGET
	RCTP	\$124,340.00
	TOTAL	\$124,340.00

*2020-2021 budget provided is estimate only. Contract will be amended to reflect actual amounts of RCTP funding based on actual 2019 calendar pro rata share of transient lodging tax and any adjustments to the approved work plan.

SCHEDULE

Contract anticipates the following schedule for each year of this agreement:

- July 12: Contract for services executed by Travel Portland and sent to Contractor.
- Contractor execute agreement and return along with an invoice requesting payment to amanda@travelporland.com. Invoice must include contract number and reference "2019-20" or "2020-21".
- Mid-year progress report due on date provided by Travel Portland, but not sooner than January 31 each year.
- July 31 each year: Annual year-end reports for use of all direct regional investment money due.

PAYMENT SCHEDULE

Upon execution of the Contract, Contractor will send a signed copy of the Contract with an updated Federal Form W-9 to amanda@travelportland.com. In no case will the payment for all services exceed the maximum, not-to-exceed amount of this agreement unless an amendment to this agreement is signed by all parties authorizing additional payment. Terms for all payments are net 30 from receipt and acceptance of itemized invoice. All invoices will include reference to this contract number: **RCTP-CCTCA-TP-2019-21**. No payments will be made without detailed invoice or until Contractor provides updated Federal Form W-9.

Travel and Other Expenses.

Travel and related other expenses are not authorized under this Agreement as separate Contractor compensation.

**EXHIBIT B
INSURANCE REQUIREMENTS**

During the term of this Contract, Contractor must maintain in force at its own expense, each insurance noted below:

(Travel Portland must check boxes for #2, #3, and #4 as to whether insurance is required or not.)

1. **Required by Travel Portland of Contractors with one or more workers, as defined by ORS 656.027, Worker's Compensation:** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

2. **Required by Travel Portland** **Not required by Travel Portland.**
Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$200,000, \$500,000, \$1,000,000 \$2,000,000 each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional Services to be provided under this Contract.

3. **Required by Travel Portland** **Not required by Travel Portland.**
General Liability insurance with a combined single limit, or the equivalent, of not less than \$500,000, \$1,000,000 \$2,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that Travel Portland and its officers and employees are Additional Insureds but only with respect to the Contractor's Services to be provided under this Contract.

4. **Required by Travel Portland** **Not required by Travel Portland.**
Automobile Liability insurance with a combined single limit, or the equivalent, of not less than Oregon Financial Responsibility Law (ORS 806.060) \$200,000, \$500,000, \$1,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.

5. **Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Contractor or its insurer(s) to Travel Portland;

6. Certificates of insurance. As evidence of the insurance coverages required by this Contract, the Contractor shall furnish acceptable insurance certificates to Travel Portland prior to commencing work. The certificate will specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to Travel Portland's acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to Travel Portland. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions or self-insurance.

EXHIBIT C – APPROVED RCTP FY 2019-21 PLAN

RCTP Clackamas County Tourism and Cultural Affairs Plan

Tactic	Budget			2019						2020						2021							
				July	Aug	Sept	Oct	Nov.	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
	FY19-20	FY20-21	FY19-21																				
Marketing 1: PR Agency Offset	\$6,840	\$27,340	\$34,180																				
Marketing 2: In-Market Activation	\$10,000	\$0	\$10,000																				
Marketing 3: Google Content Co- op	\$12,500	\$0	\$12,500																				
Staffing:	\$95,000	\$97,000	\$192,000																				
Total:	\$124,340	\$124,340	\$248,680																				

Global Marketing

Please describe your RCTP Marketing Strategy from a high level for the next biennium.

Oregon's Mt. Hood Territory is experiencing a growing awareness and interest by media from both domestic and international markets. As a high-functioning and professional DMO, Clackamas County Tourism's budget is feeling the impacts of successfully increased hosting expenses. The strategy is to use RCTP funds to help support additional PR hosting efforts and an increased workload resulting from the successful RCTP and Travel Oregon efforts.

Global Marketing Plan Tactics

Global Marketing Tactic 1:

Region Defined Tactic Name: Offset PR Agency Work

Budget: \$34,180 (\$6,840 FY19-20; \$27,340 FY20-21)

Start Date: July 2019

End Date: June 2021

Goal which tactic supports (From RCTP Goals, above): Goal B – PR: Generate consumer awareness of the region via media relations.

Does this tactic respond to stakeholder feedback? Yes - Stakeholders desire more PR exposure to targeted publications and journalists that support the efforts of the greater region and communities within the region. 68% of survey respondents listed such tactics as either “high” or “very high” priority.

KPI’s/Measurements of Success: Number of media clips, circulation and quality of media results with possible measures identified later in the biennium. This tactic supports Travel Oregon’s key measure to “Increase Oregon’s market share of total U.S. visitor spend (international and domestic)”.

Goal for the KPI (Target you are trying to hit): We’re focused on garnering results that stress quality over quantity (and target specific markets and audiences), such as feature stories/videos in target markets that call out our brand name, lodging, one of our three pillars, as well as direct readers to our website. We anticipate a minimum of 40 pieces of supporting coverage and 1M circulation.

Description of Tactic:

The PR team is very active with proactively hosting media as a DMO and in partnership with the Portland Region. With our PR agency taking on more responsibilities, such as booking media travel and transportation costs, there are identifiable needs for offsetting this work.

Global Marketing Tactic 2:

Menu of Investment Opportunities Tactic: In-Market Activation in Key Media Market

Budget: \$10,000

Start Date: October 2019

End Date: March 2020

Goal which tactic supports (From RCTP Goals, above): Goal B – PR: Generate consumer awareness of the region via media relations.

Does this tactic respond to stakeholder feedback? Yes - Stakeholders desire more PR exposure to targeted publications and journalists that support the efforts of the greater region and communities within the region. 68% of survey respondents listed such tactics as either “high” or “very high” priority.

KPI’s/Measurements of Success: Oregon’s Mt. Hood Territory will align itself with Travel Portland and Travel Oregon’s KPI’s and success metrics. We expect to form new relationships with target media that will result in future media trips and positive press coverage. This tactic supports Travel Oregon’s key measures to “Increase Oregon’s market share of total U.S. visitor spend (international and domestic)” and “Grow strategic partner investment”.

Goal for the KPI (Target you are trying to hit): Mt. Hood Territory will align itself with Travel Portland and Travel Oregon’s expected goals.

Description of Tactic:

Clackamas County Tourism will work with Travel Oregon and Travel Portland as a partner in the selected key media market. \$10,000 is allocated to a support budget, which will assist with the offsetting of costs associated with Mt. Hood Territory’s participation in the Travel Oregon/Travel Portland PR in-market media event (TBD).

Global Marketing Tactic 3:

Menu of Investment Opportunities Tactic: Google Content Co-op

Budget: \$12,500

Start Date: July 2019

End Date: June 2020

Goal which tactic supports (From RCTP Goals, above): Goal C – Marketing: Drive room nights via convention and sports marketing segments and/or leverage Travel Oregon programs.

Does this tactic respond to stakeholder feedback? Yes, specifically around alignment of marketing messaging and cooperative programming, influencing year-round visitation through accurate Google content, and assisting smaller communities and stakeholders in becoming involved in regional programs and efforts.

KPI's/Measurements of Success: Number of Clackamas County city audits completed and number of partners trained in Google marketing. This tactic supports Travel Oregon's key measures to "Increase Oregon's market share of total U.S. visitor spend (international and domestic)" and "Grow strategic partner investment".

Goal for the KPI (Target you are trying to hit): 12 city audits completed and delivered to partners. Implement key learnings from the audit for Oregon's Mt. Hood Territory staff to work with and train business partners to improve Google presence and marketing techniques.

Description of Tactic:

Clackamas County Tourism will assume the RDMO partnership of the Portland Region with the Travel Oregon marketing team and Miles Media in a program which will give the RDMOs an understanding of what 12 key cities in their area look like in Google Travel Guides and Top Sights – which are the two most destination-centric Google products. This program emphasizes in-person education for RDMOs that will focus on how they can act to address any opportunities surfaced by the audit, as well as begin to engage the industry in becoming more active on Google My Business. We've also included options for the RDMOs to expand the number of cities audited, as well as an option for content creation – both outside the shared cost of the co-op. This audit will provide valuable information for the RDMO to work with partners to improve Google Travel Guide information and Top Sights. Through this program each RDMO will have a personalized, in-person training session and become a member of the Google DMO Partnership Program. The Google Content Co-Op will whitelist the RDMO Knowledge Base developed by Google that provides how-to guides on 13+ Google tools that RDMOs can leverage.

<END>



July 16, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Personal/Professional Services Contract with
Oregon Tourism Commission for the Mt. Hood/Columbia River Gorge Region RCTP

Purpose/Outcome	Clackamas County Tourism & Cultural Affairs (CCTCA) is seeking approval for a two-year Personal Services Contract with Oregon Tourism Commission (OTC) (d.b.a. Travel Oregon) to serve as the fiscal agent and administrator of the Mt. Hood/Columbia River Gorge, Regional Cooperative Tourism Program (RCTP).
Dollar Amount and Fiscal Impact	Travel Oregon will provide a budget of \$600,000 (\$300,000 annually) for CCTCA to fiscally manage expenses incurred by the Mt. Hood/Gorge region for tourism marketing and development programs as approved by OTC in June 2019 for the FY19-21 RCTP program of work.
Funding Source	Funding provided by the State of Oregon – Oregon Tourism Commission, from the State’s 1.8% lodging tax collections. No County General Funds or County Transient Room Tax (TRT) are involved in the RCTP program.
Duration	Effective upon signature by the BCC, and continues through June 30, 2021.
Previous Board Action	CCTCA held the prior two-year Personal Services Contract agreement with Travel Oregon for the Mt. Hood/Columbia Gorge Region RCTP.
County Counsel Review	This contract has been reviewed and approved by County Counsel on July 16, 2019.
Strategic Plan Alignment	Strategic Priority #2. Goal #8. - Strengthen our role in the Regional Cooperative Tourism Program (RCTP)
Contact Person	Jeannine Breshears, Marketing & Programs Manager - (503) 655-8419

BACKGROUND:

Clackamas County Tourism & Cultural Affairs successfully completed a request for proposal (RFP) process in early 2019 and was awarded the contract to serve as the fiscal administrator of the Mt. Hood/Columbia River Gorge Region for a new six-year term. Additionally, the Oregon Tourism Commission approved the FY2019-2021 RCTP regional work plan in June 2019. Lizzie Keenan, regional tourism specialist, serves as the CCTCA staff coordinator for the Mt. Hood/Gorge regional program. CCTCA has successfully served as the administrator of the Mt. Hood/ Gorge region since 2004 upon the inception of the RCTP program through Travel Oregon.

The RCTP program is funded solely through the collection of the State's 1.8% lodging tax, and managed separately from the TRT collections to support the regional program of work as approved by Travel Oregon.

RECOMMENDATION:

Staff recommends approval of this contract agreement and authorizes CCTCA staff to administer the regional program on behalf of the Mt. Hood/Columbia River Gorge region.

Sincerely,

Danielle Cowan, Executive Director
Tourism & Cultural Affairs

STATE OF OREGON PROFESSIONAL SERVICES CONTRACT

This contract for professional services (“**Contract**”) number **HOODGORGE2019-21CNT01-RCTP** is between the State of Oregon (“**State**”), acting by and through its Oregon Tourism Commission, doing business as Travel Oregon (“**OTC**”), and **Clackamas County Tourism & Cultural Affairs, on behalf of Mt. Hood & Columbia River Gorge Region** (“**Contractor**”). OTC’s Contract Administrator for this Contract is identified in section 21.

1. Contract Term. This Contract is effective on the earlier of **July 1, 2019** or the date it has been signed by OTC and Contractor, and all required State approvals have been obtained. This Contract continues through **June 30, 2021**, unless earlier terminated or extended by written, fully executed amendment. Contract termination does not extinguish or prejudice OTC’s right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Statement of Work; Consultant and Facilitation Services; Work Product; Deliverables. Contractor shall provide the services and deliver all associated deliverables (“**Work Product**”) described in Exhibit A, Statement of Work (“**Services**”), which is attached and incorporated into this Contract.

3. Consideration.

3.1. As payment in full for Services, OTC shall pay Contractor at the rates specified in Exhibit A.

3.2. OTC will reimburse Contractor for reasonable and necessary travel and other expenses only if expressly provided in Exhibit A.

3.3. The maximum not-to-exceed amount payable to Contractor under this Contract, including all payments pursuant to Section 3.1 and any allowable expenses pursuant to section 3.2, is **\$600,000.00**. Contractor shall not submit invoices for, and OTC is not obligated to pay, any compensation in excess of this amount. If this maximum amount is increased by Contract amendment, the amendment must be fully effective before Contractor performs any Services subject to the amendment.

3.4. OTC is not obligated to pay Contractor for any Services unless such Services are complete, conform to the Contract specifications, and otherwise conform to the warranties and other terms of this Contract.

3.5. Contractor shall submit invoices no more than twice monthly to OTC’s Contract Administrator for Services performed. Contractor shall describe in each invoice all Services performed, the dates of performance, and by whom such Services were performed, and shall itemize and explain all expenses for which Contractor claims reimbursement. Contractor shall mail invoices to OTC at the address specified in section 21.

4. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence: this Contract less all exhibits, Exhibit A: Statement of Work and Exhibit B: Insurance Requirements. Exhibit A and Exhibit B are attached and incorporated into this Contract.

5. Independent Contractor; Responsibility for Taxes and Withholding.

5.1. Contractor performs all Services as an independent Contractor. Contractor is not an “officer,” “employee,” or “agent” of the State, as those terms are used in ORS 30.265. Contractor is responsible for determining the appropriate means and manner of performing the Services.

5.2. Contractor shall pay all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, OTC will not withhold from such compensation or payments any amounts to cover Contractor’s federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers’ compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

6. Subcontracts, Successors, and Assignments. Contractor shall not enter into any subcontracts for any of the Services required by this Contract without OTC’s prior written consent. OTC’s consent to any subcontract does not relieve Contractor of any of its duties or obligations under this Contract. The provisions of this Contract shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without OTC’s prior written consent.

7. No Third Party Beneficiaries. OTC and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or is construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

8. Funds Available and Authorized; Payments. Contractor will not be compensated by any other agency or department of the State for Services performed under this Contract. OTC certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within OTC’s current biennial appropriation or limitation. Contractor understands and agrees that OTC’s payment of amounts under this Contract is contingent on OTC receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OTC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

9. Representations and Warranties.

9.1. Contractor’s Representations and Warranties. Contractor represents and warrants to OTC that:

9.1.1. Contractor has the power and authority to enter into and perform this Contract;

9.1.2. this Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable according to its terms;

9.1.3. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and according to standards prevalent in

Contractor's industry, trade or profession; and

9.1.4. Contractor is and will be at all times during the term of this Contract, qualified, professionally competent, and duly licensed to perform the Services.

9.1.5 Contractor has all rights necessary in the Work Product to grant the rights to the Work Product required under this Contract and OTC's use of the Work Product shall not infringe the copyright or other intellectual property or proprietary rights of any third party;

9.1.6 To the best of Contractor's knowledge, the photographic images and OTC's authorized use of the images hereunder will not give rise to a claim by any persons depicted in the photographic images or by any third party of defamation, invasion of privacy, appropriation of likeness, unreasonable intrusion, public disclosure of private facts and holding up to a false light in the public eye;

9.1.7 All releases, permissions, and consents required in relation to the depiction of persons featured in the photographic images have been obtained for the purposes of OTC's authorized use of the Work Product under this Contract;

9.2. Warranties cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

10. Ownership of Work Product.

10.1 Ownership by OTC. Unless otherwise provided in the Statement of Work, all Work Product is the exclusive property of OTC. Contractor hereby irrevocably assigns to OTC all of its rights, title, and interest in and to any and all of such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor forever waives any and all rights relating to such Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

10.2 Ownership by Contractor. If the Statement of Work provides that the copyright is owned by the Contractor, all Work Product is the exclusive property of the Contractor. Contractor hereby grants to OTC a perpetual, non-exclusive license to use, reproduce, display, publish and create derivative works of the Work Product. Unless otherwise provided in the Statement of Work, OTC's use of the Work Product includes the right for OTC to sublicense these photographic images to other Oregon state and local government agencies and to industry partners who comprise the news media, tour operators, meeting planners and other authorized third parties ("Sublicensees").

11. Indemnity.

11.1. INDEMNITY. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON, OTC, AND THEIR OFFICERS, EMPLOYEES AND AGENTS, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE

ALLEGED NEGLIGENT OR WILLFUL ACTS, OMISSIONS, OR ANY BREACH OF THIS CONTRACT BY THE CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.

11.2. CONTROL OF DEFENSE AND SETTLEMENT. CONTRACTOR SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTION 11.1; HOWEVER, NEITHER CONTRACTOR NOR ANY ATTORNEY ENGAGED BY CONTRACTOR SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON, NOR SHALL CONTRACTOR SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IF THE STATE OF OREGON DETERMINES THAT CONTRACTOR IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE, AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

12. Insurance. Contractor shall maintain the insurance coverage specified in in Exhibit B, Insurance.

13. Termination.

13.1. Termination by OTC for Convenience. At its sole discretion, OTC may terminate this Contract for its convenience upon sixty (60) days written notice to Contractor.

13.2. Termination by OTC for Cause. In addition to any other rights and remedies OTC may have under this Contract, OTC may terminate this Contract, in whole or in part, immediately upon written notice to Contractor, or at such later date as OTC may establish in such notice, upon the occurrence of any of the following events:

13.2.1. Funding from federal, state, or other sources is not obtained and continued at levels sufficient to pay for Contractor's Services;

13.2.2. Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the performance of the Services under this Contract is prohibited or OTC is prohibited from paying for such Services from the planned funding source;

13.2.3. Contractor no longer holds a license or certificate that is required for it to perform the Services; or

13.2.4. Contractor commits any material breach or default of any covenant, warranty, obligation or certification under this Contract, fails to perform the Services in conformance with the requirements and warranties provided herein, or so fails to pursue the Services as to endanger Contractor's performance under this Contract according to its terms, and such breach, default or

failure is not cured within ten (10) business days after delivery of OTC's notice or such longer period as OTC may specify in such notice.

13.3. Termination by Contractor. Contractor may terminate this Contract if OTC fails to pay Contractor any amount pursuant to the terms of this Contract, and OTC fails to cure such failure within thirty (30) days after Contractor's notice of termination for nonpayment, or such longer period as Contractor may specify in such notice.

13.4. Contract termination pursuant to this section 13 shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. However, upon receiving a notice of termination under this section 13, Contractor shall immediately cease all activities under this Contract, unless expressly directed otherwise by OTC in the notice of termination. Further, upon termination, Contractor shall deliver to OTC all documents, information, works-in-progress, Work Product, and other property that is or would be deliverables had this Contract been completed.

14. Confidentiality. Contractor acknowledges that Contractor and its employees or agents may, in the course of performing Services under this Contract, be exposed to or acquire communication that is confidential, privileged communication not intended to be disclosed to third parties.

Contractor agrees that any Work Product created by Contractor and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract is deemed "Confidential Information" of OTC. Confidential Information does not include information which is or becomes (other than by disclosure by Contractor) publicly known.

Contractor agrees to hold such Confidential Information in strict confidence and to not copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such information for any purposes whatsoever other than the provision of Services to OTC. Contractor agrees to advise each of its employees and agents of their obligations to keep such information confidential.

15. Records Maintenance; Access. Contractor shall maintain all financial records relating to this Contract according to generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that OTC, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Contractor that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

16. Compliance with Applicable Law. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract.

17. Limitation of Liabilities. OTC AND CONTRACTOR ARE NOT LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES UNDER THIS CONTRACT OR (ii) ANY DAMAGE OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS.

18. Force Majeure. State and Contractor are not liable for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of the State or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

19. Survival. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in sections 1, 7, 8, 9, 10, 11, 13, 14, 15, 19, 24, and 25.

20. Time is of the Essence. Contractor agrees that time is of the essence under this Contract.

21. Notice. Except as otherwise expressly provided in this Contract, any notices between the parties that relate to this Contract must be given in writing, personal delivery, express courier, facsimile, or United States Postal Service, postage prepaid, to Contractor or the OTC Contract Administrator at the address or number set forth below, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any notice so addressed and mailed is effective five (5) days after the postmark date. Any notice delivered by facsimile is effective on the day the transmitting machine generates a receipt of a successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against OTC, Contractor must confirm by telephone call to OTC’s Contract Administrator, OTC’s receipt of any notice transmitted by facsimile. Any notice given by personal delivery is effective immediately if delivery is made to the following individuals:

IF TO OTC:	IF TO CONTRACTOR:
<p>Jeff Hampton, VP, Operations Contract Administrator Oregon Tourism Commission 319 SW Washington Street, Suite 700 Portland, OR 97204</p> <p>(971) 717-6205 (voice) (971) 717-6215 (fax)</p> <p>Email: accounting@traveloregon.com</p>	<p>Lizzie Keenan Mt Hood & Columbia River Gorge Region Clackamas County Tourism & Cultural Affairs 1830 Blankenship Rd. Suite 100 West Linn, OR 97068</p>

22. Severability. The parties agree that if any term of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms will not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular term held to be invalid.

23. Counterparts. This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed constitutes an original.

24. Choice of Law; Designation of Forum; Federal Forum.

24.1. Choice of Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

24.2. Designation of Forum. Any claim, action, suit or proceeding (collectively, "Claim") between OTC (or any other agency or department of the State) and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County. Contractor hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

24.3. Federal Forum. Notwithstanding section 23.2, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This section is also not a waiver by the State of Oregon of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

25. Merger Clause; Waiver. This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter of this Contract. There are no understandings, agreements, or representations, oral or written, regarding this Contract that are not specified in this Contract. No waiver, consent, modification or change of terms of this Contract binds all parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, is effective only in the specific instance and for the specific purpose given. The failure of OTC to enforce any provision of this Contract does not constitute a waiver by OTC of that or any other provision.

26. Contractor Data and Certification.

26.1. Contractor Tax Identification Information. Contractor shall provide Contractor's Social Security number or Contractor's federal tax ID number and the additional information set forth below. This information is requested pursuant to ORS 305.385. Social Security Numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws.

Name (tax filing):

Address:

Citizenship, if applicable: Non-resident alien Yes

No Business Designation (check one):

- Corporation Partnership Limited Partnership Limited Liability Company
 Limited Liability Partnership Sole Proprietorship Other:

Federal Tax ID#: _____ or SSN#: _____ - _____ - _____
Oregon State Tax ID#: _____

OTC may report the information given above to the Internal Revenue Service (IRS) under the name and social security number or taxpayer identification number provided.

26.2 Certification. The Contractor certifies under penalty of perjury that: (a) the number shown above is Contractor's correct taxpayer identification and the other information provided is correct; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) the individual is authorized to act on behalf of Contractor, has authority and knowledge regarding Contractor's payment of taxes, and to the best of the individual's knowledge, Contractor is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax for Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes and Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

MT. HOOD & COLUMBIA RIVER GORGE REGION

STATE OF OREGON acting by and through the OREGON TOURISM COMMISSION

By: _____ Date: _____

By:  Date: 6/28/2019

Name: _____

Name: Jeff Hampton

Title: _____

Title: VP, Operations

EXHIBIT A

STATEMENT OF WORK

Contractor will provide OTC with a regional tourism strategy (RCTP Plan) using OTC provided templates, when provided, that outlines regional priority initiatives and intended future activities through investment of state funds. Initiatives and activities may include but are not limited to; branding, marketing, increasing domestic and international visitors, improving or expanding tourism product, supporting tourism business and economic development, destination management and improving visitor experiences in the region. Contractor will use state lodging tax funds provided by OTC to execute an approved RCTP plan for the utilization of funds provided in this agreement.

STATEMENT OF WORK:

Contractor has been designated by OTC as Regional Destination Management Organization and will:

- a. Develop and submit an RCTP Plan using OTC provided spreadsheets and templates, when provided, for OTC review and approval. The Plan will include budgets and other detail with particularity related to proposed investment. RCTP money will not be distributed until the Plan is approved by OTC. Approved Plan and other documentation will be kept on file with OTC and hereby incorporated into this agreement as Exhibit C.
- b. Comply with all RCTP guidelines, including requirements to convene stakeholder meetings to solicit RCTP Plan input and report out on approved RCTP Plan.
- c. Expend RCTP money in accordance with the approved RCTP Plan. Retain all invoices, expense documentation, receipts, marketing materials and other documentation related to implementation of the Plan.
- d. Maintain all above-mentioned documentation for a period of three (3) years and make such documentation available to OTC, the Oregon Secretary of State's office and their authorized agents or auditors upon request.
- e. Provide mid-year and year-end progress and financial reports to OTC by the OTC established deadlines. Contractor will request, in writing, any needed extensions or clarification at least 1 week prior to the due dates of each report.
- f. Serve as a regional industry resource to OTC on matters of importance to Oregon's tourism industry, including providing local and regional policy information as needed and developing coalitions or community grassroots networks to disseminate information on matters of importance to Oregon's tourism industry as appropriate.
- g. Convene meetings with local industry members as well as with regional leadership teams and other public and private partners to foster alignment with statewide and regional tourism strategy intended to optimize the economic impacts of tourism in the region.
- h. Designate an RDMO RCTP representative to serve as primary RDMO point of contact and who will actively participate in OTC initiated statewide and regional meetings whenever possible.
- i. Work as a communication resource to OTC to deliver OTC provided industry information, including distribution and response to "call-outs" for sales and development efforts, to local and regional industry members and key stakeholders. Contractor will from time to time, as

requested, and when possible, solicit industry and stakeholder feedback or input on OTC initiatives or other industry initiatives and provide information to OTC.

- j. Expend the state dollars provided through this agreement in a manner consistent with the approved RCTP Plan and budget. RCTP Plan modifications, including budget modifications of more than \$5,000.00, must be approved in writing in advance. Contractor may not use RCTP funds to retire any debt or to cover any costs incurred prior to the effective date of this agreement.
- k. If any funds remain unspent as of June 30, 2021, Contractor may carry forward the unspent funds into future biennium contracts only if the unspent funds are deposited into the region’s grant/strategic investment fund. Otherwise, all unspent funds must be returned to OTC.

BUDGET SUMMARY

Contractor will conduct work identified in this agreement with funds provided by OTC as follows:

	2019-2020	BUDGET
	RCTP	\$300,000
	TOTAL	\$300,000

	2020-2021 *	BUDGET
	RCTP	\$300,000
	TOTAL	\$300,000

*2020-2021 budget provided is estimate only. Contract will be amended to reflect actual amounts of RCTP funding based on actual 2019 calendar pro rata share of transient lodging tax.

SCHEDULE

Contract anticipates the following schedule for each year of this agreement:

- July 1: Contract for services executed by OTC and sent to Contractor
- Contractor execute agreement and return along with an invoice requesting payment to accounting@traveloregon.com . RDMO may invoice for total annual amount if RCTP Plan has been approved or for **\$25,000** if RCTP Plan approval is pending. Invoice must include contract # and reference “2019-20” or “2020-21”
- Mid-year progress report due on date provided by OTC, but not sooner than January 31
- OTC to provide Contract amendment to Contractor reflecting prior calendar year pro rata share no later than March 31
- July 31: Annual year-end reports for use of all direct regional investment money due

PAYMENT SCHEDULE

Upon execution of the contract, Contractor will send a signed copy of the contract with an updated federal form W-9 to accounting@traveloregon.com. In no case will the payment for all services exceed the maximum, not-to-exceed amount of this agreement unless an amendment to this agreement is signed by all parties authorizing additional payment. Terms for all payments are net 30 from receipt and acceptance of itemized invoice. All invoices will include reference to **Purchase Order #2020-118** and include reference to this contract: **HOODGORGE2019-21CNT01-RCTP**. No payments will be made without detailed invoice or until Contractor provides updated Federal Form W-9.

Travel and Other Expenses.

Travel and related other expenses are not authorized under this Agreement as separate Contractor compensation.

EXHIBIT B

INSURANCE REQUIREMENTS

During the term of this Contract, Contractor must maintain in force at its own expense, each insurance noted below:

(OTC must check boxes for #2, #3, & #4 as to whether insurance is required or not.)

1. **Required by OTC of Contractors with one or more workers, as defined by ORS 656.027. Workers' Compensation:** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.
2. **Required by OTC** **Not required by OTC.**
Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$200,000 \$500,000 \$1,000,000 \$2,000,000 each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional Services to be provided under this Contract.
3. **Required by OTC** **Not required by OTC.**
General Liability insurance with a combined single limit, or the equivalent, of not less than \$500,000 \$1,000,000 \$2,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the State of Oregon, Department of Justice and their divisions, officers and employees are Additional Insureds but only with respect to the Contractor's Services to be provided under this Contract.
4. **Required by OTC** **Not required by OTC.**
Automobile Liability insurance with a combined single limit, or the equivalent, of not less than Oregon Financial Responsibility Law (ORS 806.060) \$200,000 \$500,000 \$1,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.
5. **Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Contractor or its insurer(s) to OTC;
6. **Certificates of insurance.** As evidence of the insurance coverages required by this Contract, the Contractor shall furnish acceptable insurance certificates to OTC prior to commencing the work. The certificate will specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to State acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the State. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions or self-insurance.



Evelyn Minor-Lawrence
Director

DEPARTMENT OF HUMAN RESOURCES
PUBLIC SERVICES BUILDING
2051 Kaen Road | Oregon City, OR 97045

July 9, 2019

Jeff Hampton
Oregon Tourism Commission
319 SW Washington Street, Suite 700
Portland, OR 97204

RE: Letter of Insurance – HOODGORGE2019-21

To Whom It May Concern:

This is to certify that pursuant to ORS 30.282, Clackamas County has established a self-insurance fund against tort liability for the public body, its officers, employees and agents. Under ORS 30.272, as of July 1, 2019, the current limits are \$1,498,000 per occurrence.

Claims arising from facilities and/or operations that are controlled by the County will be administered through this program.

Clackamas County has elected under ORS 656 to self-fund and administer its Workers' Compensation benefits for all claims filed by its employees.

Sincerely yours,

Eric Machado, ARM, RIMS-CRMP
Risk Manager

CC: File
Jeannine Breshears - Clackamas County Tourism & Cultural Affairs