

**RESOLUTION NO. 2681**

**A RESOLUTION OF THE CITY OF WILSONVILLE APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH VERTIGO MARKETING, LLC TO IMPLEMENT THE FY17/18 & 18/19 TOURISM PROMOTION MARKETING PLAN.**

WHEREAS, the City Council adopted, on May 5, 2014, the *Wilsonville Tourism Development Strategy* (“Strategy”), which set forth a blueprint for implementing a tourism strategy for the greater Wilsonville community, including forming a Destination Marketing Organization (DMO) or committee to develop and promote tourism; and

WHEREAS, the City Council adopted, on June 15, 2015, Resolution No. 2541 to establish the Tourism Promotion Committee that, among other duties, is to oversee the implementation of the Strategy and develop an annual business plan; and

WHEREAS, the City Council adopted, on June 19, 2017, the second annual *FY 2017/18 Five-Year Action Plan and Annual One-Year Implementation Plan for the Wilsonville Tourism Development Strategy* (“Plan”), that called for:

Developing the tourism promotion program organizational framework and staffing resource by acquiring the professional services of a Tourism Development and Operations Consultant contractor to advance the Strategy and the Plan.

Advancing tourism promotion marketing by working with the Tourism Development and Operations Consultant contractor to develop a tourism branding strategy and a marketing promotion plan with a focus on Wilsonville tourism branding, marketing and online/Internet website products and processes.

Furthering study efforts for the City to advance tourism development, including a visitor profile study; and

WHEREAS, the City undertook a Request for Proposals (RFP) process in 2017 that resulted in the City awarding a professional services agreement to Vertigo Marketing LLC for acting as the Tourism Development and Operations Consultant to advance tourism efforts, including developing a tourism branding strategy and a marketing promotion plan; and

WHEREAS, acting in their capacity as Tourism Development and Operations Consultant, principals of Vertigo Marketing worked from August 2017 through January 2018 with the Tourism Promotion Committee to develop a comprehensive Tourism Promotion Marketing Plan; and

WHEREAS, the Tourism Promotion Committee approved for Council adoption the FY17/18 & 18/19 Tourism Promotion Marketing Plan on December 12, 2017, and January 30, 2018, composed of the "FY17/18 & 18/19 Marketing Playbook" Plan dated February 2018 and supporting "Scope of Work 2018/2019 Advertising & Marketing Services" dated January 19, 2018; and

WHEREAS, on February 22, 2018, the City Council adopted Resolution No. 2669, which approved the FY17/18 & 18/19 Tourism Promotion Marketing Plan, composed of the "FY17/18 & 18/19 Marketing Playbook" Plan dated February 2018 and supporting "Scope of Work 2018/2019 Advertising & Marketing Services" dated January 19, 2018; and

WHEREAS, the RFP process contemplated that the successful proposer would implement the marketing plan it developed in conjunction with the Tourism Promotion Committee; and

WHEREAS, Vertigo Marketing, LLC is prepared to provide such services, as the City does hereinafter require, under terms and conditions hereinafter described.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The Wilsonville City Council hereby approves and authorizes the City Manager to execute on behalf of the City of Wilsonville a Professional Services Agreement, in substantially similar form to **Exhibit 1** attached hereto, with Vertigo Marketing, LLC to implement the FY17/18 & 18/19 Tourism Promotion Marketing Plan.
2. The term of the agreement ends on June 30, 2019.
3. The contract payment is not to exceed \$199,700.00.
4. This resolution becomes effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting on March 19, 2018, and filed with the Wilsonville City Recorder this date.

  
\_\_\_\_\_  
Tim Knapp, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Excused
Councilor Stevens	Yes
Councilor Lehan	Excused
Councilor Akervall	Yes

Attachment:

Exhibit 1 – Professional Services Agreement with Vertigo Marketing, LLC

**CITY OF WILSONVILLE  
PROFESSIONAL SERVICES AGREEMENT  
Tourism Advertising and Marketing Services**

This Professional Services Agreement for a Tourism Development and Operations Consultant (“Agreement”) is made and entered into on this \_\_\_\_ day of March 2018 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **Vertigo Marketing, LLC**, an Oregon limited liability company (hereinafter referred to as “Consultant”).

**RECITALS**

WHEREAS, the City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that Consultant is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Consultant is prepared to provide such services as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Work**

Contractor will perform the advertising and marketing services (“Services”), as more particularly described in the Scope of Work attached hereto as **Exhibit A** and incorporated by reference herein, for the Tourism Advertising and Marketing Project (“Project”).

**Section 2. Term**

The term of this Agreement shall be from the Effective Date until all services required to be performed hereunder (“Services”) are completed and accepted, or no later than June 30, 2019, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City.

**Section 3. Consultant’s Services**

3.1. Consultant shall diligently perform the tourism advertising and marketing Services according to the requirements identified in the Scope of Work, attached hereto as **Exhibit A** and incorporated by reference herein.

3.2. All written documents prepared by Consultant in conjunction with the Services shall bear the signature, stamp, or initials of Consultant's authorized Project Manager.

3.3. Consultant shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Consultant may have access by reason of this Agreement. Consultant warrants that Consultant's employees assigned to the Services provided for in this Agreement shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

#### **Section 4. Compensation**

4.1. Except as otherwise set forth in this **Section 4**, the City agrees to pay Consultant on a time and materials basis, guaranteed not to exceed ONE HUNDRED NINETY-NINE THOUSAND SEVEN HUNDRED DOLLARS (\$199,700), for performance of the Services for the term of the Agreement ("Compensation Amount"). Any compensation in excess of the Compensation Amount will require an express written Addendum between the City and Consultant, executed in compliance with the provisions of **Section 14**.

4.2. Consultant's Compensation Amount is all inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits and similar contributions and benefits, technology and/or software charges, office expenses, and all other indirect and overhead charges.

4.3. During the course of Consultant's performance, if the City, through its Project Manager, specifically requests Consultant to provide additional services that are beyond the Scope of Services described on **Exhibit A**, a written Addendum to this Agreement must be executed in compliance with the provisions of **Section 14**.

4.4. Except for amounts withheld by the City pursuant to this Agreement, Consultant will be paid for Services for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Consultant as promptly as is reasonably possible.

#### **Section 5. City's Responsibilities**

The City will designate a Project Manager to facilitate day-to-day communication between Consultant and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

#### **Section 6. City's Project Manager**

The City's Project Manager is Mark Ottenad, Public/Government Affairs Director. The City shall give Consultant prompt written notice of any re-designation of its Project Manager.

## **Section 7. Consultant's Project Manager**

Consultant's Project Manager is Trevor Naranche. In the event that Consultant's designated Project Manager is changed, Consultant shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Consultant's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Consultant that is not from Consultant's designated Project Manager, the City may request verification by Consultant's Project Manager, which verification must be promptly furnished.

## **Section 8. Subcontractors and Assignments**

8.1. Unless expressly authorized in **Exhibit A** or **Section 9** of this Agreement, Consultant shall not subcontract with others for any of the Services prescribed herein. Consultant shall not assign any of Consultant's rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City's sole discretion. Some Services may be performed by persons other than Consultant, provided Consultant advises the City of the names of such subcontractors and the work which they intend to perform, and the City specifically agrees in writing to such subcontracting. Consultant acknowledges such work will be provided to the City pursuant to a subcontract(s) between Consultant and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Agreement, the City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this Agreement without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for work performed by others on behalf of Consultant shall not be subject to additional reimbursement by the City. References to "subcontractor" mean a subcontractor at any tier.

8.2. The City shall have the right to enter into other agreements for the Project, to be coordinated with this Agreement. Consultant shall cooperate with the City and other firms or subcontractors on the Project so that all portions of the Project may be completed in the least possible time and within normal working hours.

## **Section 9. Consultant Is Independent Contractor**

Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the Compensation Amount provided for under **Section 4** of this Agreement. Consultant will be solely responsible for determining the manner and means of accomplishing the end result of Consultant's Services. The City does not have the right to control or interfere with the manner or method of accomplishing said Services. The City, however, will have the right to specify and control the results of Consultant's Services so such Services meet the requirements of the Project.

9.1. Consultant has requested that some consulting Services be performed on the Project by persons or firms other than Consultant, through a subcontract with Consultant. Consultant acknowledges that if such Services are provided to the City pursuant to a subcontract(s) between Consultant and those who provide such services, Consultant may not utilize any subcontractor(s), or in any way assign its responsibility under this Agreement, without first obtaining the express written consent of the City, which consent may be given or denied in the City's sole discretion. In

all cases, processing and payment of billings from subcontractors is solely the responsibility of Consultant.

9.2. Consultant shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions. Unless otherwise agreed to, in writing, by the City, Consultant shall require that all of Consultant's subcontractors also comply with, and be subject to, the provisions of this **Section 9** and meet the same insurance requirements of Consultant under this Agreement.

## **Section 10. Consultant Responsibilities**

10.1. Consultant shall make prompt payment for any claims for labor, materials, or services furnished to Consultant by any person in connection with this Agreement, as such claims become due. Consultant shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Consultant. If Consultant fails, neglects, or refuses to make prompt payment of any such claim, the City may, but shall not be obligated to, pay such claim to the subcontractor furnishing the labor, materials, or services and offset the amount of the payment against funds due or to become due to Consultant under this Agreement. The City may also recover any such amounts directly from Consultant.

10.2. Consultant must comply with all applicable Oregon and federal wage and hour laws, including Bureau of Labor and Industries (BOLI) wage requirements, if applicable. Consultant shall make all required workers compensation and medical care payments on time. Consultant shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth on **Exhibit A** as a reimbursable expense item not included in the Compensation Amount, specific costs associated with items set forth in this subsection shall be deemed as fully and conclusively included in the rate upon which Consultant's Compensation Amount is based.

10.3. No person shall be discriminated against by Consultant or any subcontractor in the performance of this Agreement on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Agreement, in whole or in part, by the City.

## **Section 11. Indemnity and Insurance**

11.1. Indemnification. Consultant acknowledges responsibility for liability arising out of the performance of this Agreement, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors, or willful

or reckless misconduct pursuant to this Agreement, or from Consultant's failure to perform its responsibilities as set forth in this Agreement. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Consultant shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Consultant of its responsibility to perform in full conformity with the City's requirements, as set forth in this Agreement, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Consultant's negligent performance of this Agreement, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 11.2**. Consultant shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Consultant.

11.2. Standard of Care. In the performance of professional services, Consultant agrees to use at least that degree of care and skill exercised under similar circumstances by reputable members of Consultant's profession practicing in the Portland metropolitan area. Consultant will re-perform any Services not meeting this standard without additional compensation. Consultant's re-performance of any Services, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Consultant's failure to perform in accordance with the applicable standard of care of this Agreement and within the prescribed timeframe.

11.3. Insurance Requirements. Consultant shall maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Agreement. Such insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder. Any and all agents, contractors, or subcontractors with which Consultant contracts to work on the Services must have insurance that conforms to the insurance requirements in this Agreement. The amount of insurance carried is in no way a limitation on Consultant's liability hereunder. The policy or policies of insurance maintained by Consultant shall provide at least the following minimum limits and coverages at all times during performance under this Agreement:

11.3.1. Commercial General Liability Insurance. Consultant and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Agreement, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Agreement and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Agreement.

11.3.2. Professional Errors and Omissions Coverage. Consultant agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the Services hereunder with a limit of no less than **\$2,000,000** per claim. Consultant shall maintain this insurance for damages alleged to be as a result of



errors, omissions, or negligent acts of Consultant. Such policy shall have a retroactive date effective before the commencement of any work by Consultant on the Services covered by this Agreement, and coverage will remain in force for a period of at least three (3) years thereafter.

11.3.3. Business Automobile Liability Insurance. If Consultant or any subcontractors will be using a motor vehicle in the performance of the Services herein, Consultant shall provide the City a certificate indicating that Consultant and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

11.3.4. Workers Compensation Insurance. Consultant, its subcontractors, and all employers providing work, labor, or materials under this Agreement that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers 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 thirty (30) days in a calendar year. Consultants 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.

11.3.5. Insurance Carrier Rating. Coverages provided by Consultant and its subcontractors must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

11.3.6. Additional Insured and Termination Endorsements. Additional Insured coverage under Consultant's Commercial General Liability, Automobile Liability, and Excess Liability Policy(ies), as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder. Consultant must be an additional insured on the insurance policies obtained by its subcontractors performing work on the Services contemplated under this Agreement.

11.3.7. Certificates of Insurance. As evidence of the insurance coverage required by this Agreement, Consultant shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Consultant agrees that it will not terminate or change its coverage during the term of this Agreement without giving the City at least thirty (30) days' prior advance notice and Consultant will obtain an

endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

11.4. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Consultant will be required to maintain such policies in full force and effect throughout any warranty period.

## **Section 12. Early Termination; Default**

12.1. This Agreement may be terminated prior to the expiration of the agreed upon terms:

12.1.1. By mutual written consent of the parties;

12.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; or

12.1.3. By Consultant, effective upon seven (7) days' prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of Consultant, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

12.2. If the City terminates this Agreement, in whole or in part, due to default or failure of Consultant to perform Services in accordance with the Agreement, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Consultant shall be liable for all costs and damages incurred by the City as a result of the default by Consultant, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Agreement. This Agreement shall be in full force to the extent not terminated by written notice from the City to Consultant. In the event of a default, the City will provide Consultant with written notice of the default and a period of ten (10) days to cure the default. If Consultant notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Agreement and seek remedies for the default, as provided above.

12.3. If the City terminates this Agreement for its own convenience not due to any default by Consultant, payment of Consultant shall be prorated to, and include, the day of termination and shall be in full satisfaction of all claims by Consultant against the City under this Agreement.

12.4. Termination under any provision of this section shall not affect any right, obligation, or liability of Consultant or the City that accrued prior to such termination. Consultant shall surrender to the City items of work or portions thereof, referred to in **Section 16**, for which Consultant has received payment or the City has made payment.

### **Section 13. Suspension of Services**

The City may suspend, delay, or interrupt all or any part of the Services for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within Consultant's control. The City shall not be responsible for Services performed by any subcontractors after notice of suspension is given by the City to Consultant. Should the City suspend, delay, or interrupt the Services and the suspension is not within Consultant's control, then the City shall extend the time of completion by the length of the delay.

### **Section 14. Modification/Addendum**

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both the City and Consultant. A modification is a written document, contemporaneously executed by the City and Consultant, which increases or decreases the cost to the City over the agreed Compensation Amount in **Section 4** of this Agreement, or changes or modifies the Scope of Work or the time for performance. No modification shall be binding or effective until executed, in writing, by both Consultant and the City. If Consultant incurs additional costs or devotes additional time on Project tasks, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Addendum to this Agreement.

### **Section 15. Access to Records**

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Consultant as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of four (4) years, unless within that time the City specifically requests an extension. This clause shall survive the expiration, completion, or termination of this Agreement.

### **Section 16. Property of the City**

All documents, reports, and research gathered or prepared by Consultant under this Agreement, including but not limited to spreadsheets, charts, graphs, drawings, modeling, maps, data generation, papers, diaries, and inspection reports, shall be the exclusive property of the City and shall be delivered to the City prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to the City upon request without additional compensation. Upon the City's approval, and provided the City is identified in connection therewith, Consultant may include Consultant's work in its promotional materials.

### **Section 17. Notices**

Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville  
Attn: Mark Ottenad, Government/Public Affairs Director  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

To Consultant: Vertigo Marketing, LLC  
Attn: Trevor Naranche  
63372 Freedom Place  
Bend, OR 97701

## **Section 18. Miscellaneous Provisions**

18.1. Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

18.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be enforced by an action at law or in equity.

18.3. No Assignment. Consultant may not assign this Agreement, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

18.4. Adherence to Law. In the performance of this Agreement, Consultant shall adhere to all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Consultant is required by law to obtain or maintain in order to perform the Services described on **Exhibit A**, shall be obtained and maintained throughout the term of this Agreement.

18.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

18.6. Jurisdiction. Venue for any dispute will be in Clackamas County Circuit Court.

18.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Agreement, such fees shall include all of the above

fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

18.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Agreement shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

18.9. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

18.10. Modification. This Agreement may not be modified except by written instrument executed by Consultant and the City.

18.11. Time of the Essence. Time is expressly made of the essence in the performance of this Agreement.

18.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

18.13. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

18.14. Number, Gender and Captions. In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

18.15. Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Agreement gives the City "sole discretion" or the City is allowed to make a decision in its "sole judgment."

18.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

18.17. Interpretation. As a further condition of this Agreement, the City and Consultant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Agreement, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

18.18. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the parties.

18.19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

18.20. Authority. Each party signing on behalf of Consultant and the City hereby warrants actual authority to bind their respective party.

The Consultant and the City hereby agree to all provisions of this Agreement.

**CONSULTANT:**

VERTIGO MARKETING, LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

Employer I.D. No. 47-5550233

**CITY:**

CITY OF WILSONVILLE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Guile-Hinman, Asst. City Attorney  
City of Wilsonville, Oregon

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EXHIBIT A



**SCOPE OF WORK  
CITY OF WILSONVILLE 2018/2019 ADVERTISING &  
MARKETING SERVICES  
THROUGH JUNE 30, 2019**

*A Component of the FY17/18 & 18/19 Tourism Promotion Marketing Plan*

Approved by Wilsonville City Council on February 22, 2018.



**AMENDED ON**  
January 19, 2018



## **GLOSSARY OF TERMS**

### **(CDN) Content Delivery Network**

A content delivery network or content distribution network is a geographically distributed network of proxy servers and their data centers.

### **Email “Blast”**

Email marketing is the act of sending a commercial message, typically to a group of people, using email. In its broadest sense, every email sent to a potential or current customer could be considered email marketing

### **Hackalert**

HackAlert is a cloud-based service that identifies hidden zero-day malware and drive-by downloads in websites and online advertisements. Its greatest strength lies in its early-warning function- it sends out an immediate warning to the website owner, before search engines blacklist the website.

### **Hosting**

The activity or business of providing storage space and access for websites.

### **(KPI) Key Performance Indicator**

A Key Performance Indicator is a measurable value that demonstrates how effectively a company is achieving key business objectives.

### **Maintenance**

Performing all the tasks necessary to keep a website up to date and in good, working order so that it works and shows up correctly with the latest web browsers and mobile devices.

### **(ODMO) Oregon Destination Marketing Organization**

### **Plug-ins**

Plug-ins are apps that allow you to add new features and functionality to your website. Exactly the same way as apps do for your smartphone.

### **(SEO) Search Engine Optimization**

The process of maximizing the number of visitors to a particular website by ensuring that the site appears high on the list of results returned by a search engine.

### **Social Media**

Websites and applications that enable users to create and share content or to participate in social networking.

### **SSL Certificate**

SSL Certificates are small data files that digitally bind a cryptographic key to an organization's details. When installed on a web server, it activates the padlock and the https protocol and allows secure connections from a web server to a browser.

### **(VIC) Visitor Information Center**

A physical location that provides tourist information to the visitors who tour the place or area locally.



Final costs are based on approved client budget and treated as “do not exceed”. Per contract, line items for the following goods and services can be reallocated to cover unanticipated needs upon mutual agreement between Vertigo Marketing and the City of Wilsonville and may be reallocated at the direction of the Public/Government Affairs Director.

## SECTION ONE

**Deliverables that require retainer-fee services provided by Vertigo or subcontractors.**

### **A. WEBSITE RETAINER SERVICES: \$19,000**

#### **A. To include the following services and deliverables:**

- Hosting & Maintenance: hosting with CDN
- SSL Certificate Renewal
- Security/Hackalert Scanning
- Paid Plug-ins
- Content Creation
- Campaign Landing Page Development
- Ongoing Updates for Listings
- Event Calendar Updates
- Design & Development
- SEO + Ranking Software Subscription
- Adding Graphics/Photos/Videos
- Reporting: Quarterly KPI report

#### **B. Team Members assigned to this Task:**

- Lynnette

#### **C. Completion date:** Throughout 2018/19

### **B. WEBSITE REDESIGN: \$15,000**

#### **A. To include the following services and deliverables:**

- Custom Development for Plugins
- Enhanced Event Calendar
- Directory Listings
- Graphics/Design enhancements to match the new brand

#### **B. Team Members assigned to this Task:**

- Lynnette

#### **C. Completion date:** Spring 2018

### **C. DISTRIBUTION: \$4,401**

#### **A. To include the following services and deliverables:**

- Distribution of Visitor Guide to Willamette Valley Regional DMO's (34): Local City and County Chambers of Commerce, Convention & Visitors Bureaus, Visitor Information Centers (VIC's)
- Distribution of Visitor Guide to Greater Portland State Welcome Centers (24): Local City and County Chambers of Commerce, Convention & Visitors Bureaus, VIC's
- Distribution of Visitor Guide to Mt. Hood/Columbia River Gorge Regional DMO's (11): Local City and County Chambers of Commerce, Convention & Visitors Bureaus, VIC's

- **Travel Portland (2):** VIC in Pioneer Courthouse Square and the Oregon Convention Center
- **Distribution Services:** Storage, Management, Count, Bundle, Box, Label, Shipping and Delivery

**B. Team Members assigned to this Task:**

- Trev

**C. Completion date:** Spring 2018

**D. DESIGN SERVICES:**

**\$16,680**

**A. To include the following services and deliverables:**

- **Pocket Trips Visitor Guide:** (1) folio / rack card, (12) pocket cards
- **Print Ad Design:** Creative services for print advertising campaigns
- **Digital Ad Design & Development:** Creative services for digital advertising campaigns
- **Copy writing:** Develop copy for marketing collateral, print and digital advertising
- **Media Buying:** Identify advertising opportunities with various publications, negotiate favorable ad rates, identify insertion dates based on editorial calendar, define ad specs, upload ads
- **Art & Creative Direction:** Develop creative that aligns and enhances current marketing efforts
- **Photography Selections:** Online search for desirable photography that reflects the image being developed for Wilsonville, locate and communicate with photographer, negotiate rates, usage, archival of imagery, contracts and licensing
- **Production:** Non-creative production services

**B. Team Members assigned to this Task:**

- Lynnette, Trev

**C. Completion date:** Throughout 2018/19

**E. SOCIAL MEDIA RETAINER SERVICES:**

**\$36,000**

**A. To include the following services and deliverables:**

- **Social Media Strategy:** Create master editorial calendar, develop and align SEO social strategies to assist with SEO efforts for the website, identify trending hashtags, review and analyze to improve the campaign performance.
- **Management & Implementation:** Manage day-to-day social media posting and community management, copywriting, graphic design, art direction of photography, schedule posts, seek out missing photography, ongoing coordination and communication with event producers and businesses for events and happenings
- **Monitoring**
- **Reporting:** Quarterly KPI report
- **Establish Channels:** TW @SeeWilsonville, YouTube ExploreWilsonville
- **Customize Channels**
- **Post 2x per week**
- **Paid Social Media ads with deep targeting**
- **Social media contest promotion for lead generation**

**B. Team Members assigned to this Task:**

- Lynnette, Trev, sub-contractor TBD and approved per City regulations

**C. Completion date:** Throughout 2018/19

**F. PR RETAINER SERVICES:**

**\$15,000**

**A. To include the following services and deliverables:**

- **Press Release Writing:** (4 releases with regional wire AP distribution)



• **Meltwater Software Subscription:**

- Full Monitoring Suite
- Premium Social Coverage (Facebook, Twitter, Instagram, YouTube, 23 million blogs)
- Analytics & Dashboards
- Full Media Contact Database with unlimited press distribution
  - **NOTE:** Meltwater is the global leader in online media intelligence. Their product suite allows us to monitor, distribute, publicize and analyze business critical information posted online, in both mainstream media and social media, as well as build media contact lists to assist with press outreach

- **Pitching Story Ideas**
- **Responding to Writers with Content & Photos**
- **Set Up and Manage Meltwater Software**
- **List Building**
- **Monitoring**
- **Reporting:** Quarterly KPI report
- **Research/Interviews**

**B. Team Members assigned to this Task:**

- Lynnette, sub-contractor TBD and approved per Clty regulations

**C. Completion date:** Throughout 2018/19

**G. PHOTO & VIDEO:**

**\$15,000**

**A. May include the following services and deliverables:**

- New photography and videography rights for print and digital usage
- Custom photo/video shoots at various “pocket trip” locations throughout the seasons
- Event photography
- Scouting
- Creative Direction
- Shotlist
- Storyboard
- Models/Talent/Props
- Filming
- Editing
- Travel
- Production

**B. Team Members assigned to this Task:**

- Lynnette, Trev, sub-contractors TBD and approved per Clty regulations

**C. Completion date:** Throughout 2018/19

**H. EMAIL MARKETING SERVICES FY18/19:**

**\$3,000**

**A. To include the following services and deliverables:**

- Email Blasts (6)
- Template Design & Development
- Content Creation/Copywriting
- List Management
- Production
- **Reporting:** Quarterly KPI report

**B. Team Members assigned to this Task:**

- Lynnette

**C. Completion date:** FY2018/2019

**I. FINANCIAL:**

**\$6,490**

**A. To include the following services and deliverables:**

- Accounting
- Quarterly Reports
- Membership Management: ODMO, ISSUU, Travel Portland
- Software Subscriptions Management & Implementation: STR

**B. Team Members assigned to this Task:**

- Lynnette, Trev

**C. Completion date:** Throughout 2018/19

**SUBTOTAL SECTION ONE:**

**\$130,571**

**SECTION TWO**

**Media buys, sub-contractor services, memberships & subscriptions, printing, postage, and distribution services that will be invoiced directly from vendors that are in effect pass-through expenses.**

**J. RESERVE/CONTINGENCY:**

**\$7,500**

**K. PRINT MEDIA BUYS\*:**

**\$20,090**

1. Travel Oregon - 2018	2,100,000 impressions	\$3,900
2. Travel Portland - 2018	1,155,000 impressions	\$4,500
3. Portland Monthly - Oct: Long Weekends & Wine Guide	492,075 impressions	\$2,000
4. AAA (VIA) - July/Aug: Willamette River	1,058,000 impressions	\$3,720
5. AAA (VIA) - Nov/Dec: Insiders Guide to Portland	1,058,000 impressions	\$3,720
6. Co-ops with regional partners	impressions TBD	\$2,250

*\*Impression data comes from media kits provided by each publication or other documents*

**L. PAID DIGITAL MEDIA BUYS:**

**\$13,500**

1. Facebook/Instagram	impressions TBD
2. Google Adwords	impressions TBD
3. Misc. digital (Travel Oregon, etc.)	impressions TBD

**M. CURRENT WEBSITE SERVICES:**

**\$6,000**

**A. To include the following services and deliverables:**

- Hosting & Maintenance: (provided by MediaPhysics through June 2018)
- Event Calendar

**B. Team Members assigned to this Task:**

- Lynnette, MediaPhysics (approved service provider for City of Wilsonville)

**C. Completion date:** Current contract with MediaPhysics expires June 30, 2018



**N. FINANCIAL:** **\$3,505**

**A. To include the following services and deliverables:**

- **Memberships:** ODMO \$500, Travel Portland \$585
- **Software subscriptions:** STR \$2000, ISSUU \$420

**B. Team Members assigned to this Task:**

- Lynnette, Trev

**C. Completion date:** Throughout 2018/19

**O. POCKET TRIPS VISITOR GUIDE:** **\$17,320**

**A. To include the following services and deliverables:**

- **Pocket Adventures - Folio / Rack Card:** 23.5" x 9" (flat) sheet printed on 65# Cougar Opaque Smooth Cover. Printed in four (process) colors on both sides of sheet (4/4), full bleed. Die cut per-diagram - contains, 4 (four) 3.25" slits with relief holes. 4 (four) glue strips to create two pockets on far left and right panels. 6 (six) scores with a .25" capacity score in center. Folded to create 2 pockets and packaged as a flat piece.

**Quantity:** 15,000

- **Pocket Cards:** 12 (twelve) different 3" x 4" cards printed on 111# Dull Cover. Printed in four (process) colors on both sides of sheet (4/4), full bleed. Trimmed and boxed.

**Quantity:** 15,000 (180,000 cards)

- **Assembly:** Collate 12 cards into 4 sets of 3. Hand insert each set into slit on pocket folder. Hand fold folio shut to finish size of 4" x 9". Box.

- **Postage:** Reserve 1,000 finished pieces to be made available per request for mailing. Current 3 ounce rate is \$0.91 per piece via First Class stamp. Mailing services (stuffing, addressing and stamping envelope) to be provided by City Staff.

- **#10 Envelopes:** 1,000 #10 Regular 24 lb. bright white envelopes with logo and/or return address printed on front.

**B. Team Members assigned to this Task:**

- Trev, print sub-contractor TBD and approved per City regulations, City Staff

**C. Completion date:** Spring 2018

**P. DISTRIBUTION:** **\$1,214**

**A. To include the following services and deliverables:**

- **Certified Folder: Corporate/Industrial program** (10 sites throughout Aloha, Beaverton, Clackamas, Hillsboro, Lake Oswego, Portland), **Portland International Airport, Oregon City State Welcome Center**

**B. Team Members assigned to this Task:**

- Trev, Certified Folder to be approved per City regulations

**C. Completion date:** Spring 2018

**SUBTOTAL SECTION TWO:** **\$69,129**

**TOTAL BUDGET FY18/19 (ONE + TWO):** **\$199,700**