

Yachats Visitors' Center Service Contract

It is agreed by and between the following parties:

The Yachats Area Chamber of Commerce (hereafter, "the Contractor")
An Oregon nonprofit corporation
P O Box 728
Yachats, OR 97498
Telephone (541) 547-3530

The City of Yachats (hereafter, "the City")
An Oregon municipal corporation
PO Box 345
Yachats, OR 97498
Telephone (541) 547-3565

The City shall provide a suitable location for the Visitors Center.

In consideration for the City's payment of the contract price to the Contractor, the Contractor shall maintain and operate a Visitors Center for the purpose of attracting and providing information to visitors to the Yachats area, as follows:

Name: The name of the visitors' center shall be "The City of Yachats Visitors Center" (hereafter, the "Visitors Center"). The name will appear on all publications prepared in the performance of this agreement and will be used when answering the telephone. The Contractor may add its name to publications and telephone greeting to indicate mutual support, but publications shall indicate the City's sponsorship of the Visitors Center and include the GoYachats logo and URL.

Telephone: The Visitors Center shall maintain telephone numbers (541) 547-3530 and (800) 929-0477 for visitor information. One or both of these telephone numbers shall be included on all literature.

Post Office Box: The Visitors Center shall maintain Yachats Post Office box number 728 for visitor information. The Post Office box number shall be included on all literature.

Hours of Operation. The minimum hours of operation of the Visitors Center shall be:

March 15 through October 31: 10 a.m. to 4 p.m. Daily
November 1 through March 14: 10 a.m. to 4 p.m. Friday – Sunday

The Visitors Center will be open most holidays and 3-day weekends.

Services Provided: The Contractor shall use competent and trained personnel to properly carry out the operation of the Visitors Center. The Contractor shall provide all materials required in the performance of its services, including literature, brochures, postage, office space and office equipment, and supplies for the public restroom. The Contractor's duties in running the Visitors Center shall include the following:

Recruiting, training, scheduling, and supervising an adequate number of volunteers;

Maintaining the Visitors Center and keeping it clean, safe and attractive;
Maintaining adequate supplies and equipment;
Responding to incoming correspondence to the Visitors Center;
Responding to requests from prospective visitors for information, brochures, and pertinent materials.

Marketing:

The Contractor shall support and continue to implement the Yachats Marketing Plan, which may include activities related to the Rural Tourism Studio, future Travel Oregon marketing opportunities or other types of grants and marketing projects.

Equipment: Any equipment purchased for the Visitors Center and/or maintained with City funds shall become the property of the City.

Reports:

Operations and activities: The Contractor shall submit quarterly visitor count reports of general inquiries and information requests received by the Visitors Center and activities the Contractor has undertaken on behalf of the City. The reports shall separate the Contractor's activities as the City's representative from those activities in which they are involved for their membership.

Budget and accounting: The Contractor shall submit quarterly operating budget comparison reports showing the year to date expenses compared to the total budget for each line item identified in the proposal as approved by the City when the contract was awarded for the fiscal year.

Questions and Complaints: Any person with a question or complaint regarding the operation of the Visitors Center shall be referred to the Contractor's management contractor, or such other entity as the Contractor may, from time to time, advise the City in writing. If the question or complaint is not resolved by the Contractor, the person may bring the complaint to the City for resolution.

Promotional Literature: The Contractor shall honor all reasonable requests from Chamber members, as well as from nonmembers who have current City business licenses, to display information and/or distribute their business and promotional literature at the Visitors Center. The Contractor may also promote its own events through the Visitors Center.

Accounting: Funds for the operation of the Visitors Center shall be maintained in an account separate from all other Contractor bank accounts. The Contractor shall pay promptly when due all expenses incurred in the operation of the Visitors Center and shall not allow any obligations to become overdue. The Contractor shall maintain accurate books, records and accounts of all Visitors Center transactions. An authorized representative of the City shall be entitled from time to time, upon reasonable request, to inspect the books, records and accounts of the Visitors Center.

Annual Review of Books: As part of the contract price for operating the Visitors Center, a review of the Visitors Center books and records shall be conducted each year by an independent certified public accounting firm agreeable to both the City and the Contractor. The review will be completed for the preceding fiscal year by August 30 of the new fiscal year and copies of the report shall be provided to both the City and the Contractor. The review shall include financial

statements showing all revenue and expenses for the fiscal year compared to the approved budget and a general ledger report.

Workers Compensation: If either the Contractor or any other subcontractor hires employees to be used in the performance of this agreement, the Contractor or subcontractor shall be solely responsible for complying with all Oregon Workers' Compensation Law requirements, and shall indemnify the City against and hold the City harmless from any liability for noncompliance. The Contractor shall provide a certificate or other proof of coverage satisfactory to the City.

Insurance: The Contractor shall maintain a commercial general liability insurance policy with coverage of not less than \$1,000,000.00 combined single limit per occurrence, with aggregate of \$1,000,000.00 for bodily injury, personal injury or property damage. At no time shall the Contractor allow such insurance coverage to be less coverage than the limits of liability under the Oregon Tort Claims Laws, ORS 3.0260-30.300, particularly ORS 30.275, as such laws now or may hereafter require. The policy shall contain a contractual agreement. The policy shall also contain an endorsement naming the City as an additional insured, in a form satisfactory to the City, and expressly provide that the interest of the City shall not be affected by the Contractor's breach of policy provisions. The policy shall be maintained in full force and effect during the full term of this agreement. The City shall terminate this agreement immediately at any time the Contractor fails to comply with this provision. The Contractor shall provide a current certificate of insurance satisfactory to the City.

Subcontractors: The Contractor may delegate all or any part of its obligations hereunder to one or more subcontractors or employees, provided that the Contractor shall have full responsibility for all Visitors Center activities performed by said contractors or employees. No such delegation shall impair the Contractor's satisfactory performance of this contract.

The Contract Price: The City agrees to pay the Contractor for the full performance of its obligations under this agreement the contract price of \$64,765. The contract price shall be paid in quarterly installments of \$16,191.25 each, on or before January 15, April 15, July 15, October 15 of the calendar year.

Independent Contractor: The Contractor is an independent contractor. The nature of the services to be rendered and the results to be achieved shall be specified by the City; however, the Contractor shall control the manner in which the services are performed and the results are achieved. The Contractor is not to be deemed an employee or agent of the City and has no authority to make any binding commitments on behalf of the City except as expressly authorized by the City in writing. The Contractor shall be solely responsible for payment of all the Contractor's income taxes, self-employment taxes, liability insurance, worker's compensation insurance, and employee wages and benefits.

Indemnification: The City shall not be liable to the Contractor for any injury to person or property sustained by the Contractor, including its employees and agents, in performance of this agreement, except to the extent that such injury is caused solely by the negligent acts of the City. The Contractor shall be liable for any injury to person or property it may cause to the City or to any third party, and shall indemnify the City against and hold the City harmless from any injury to person or property incurred by the Contractor, including its employees and agents, or by any third party, in the performance of its agreement. Each party shall indemnify, hold harmless and defend the other, its officials, agents and employees, from and against any and all claims, damages, losses and expenses, including attorney fees, arising from its performance of, or failure to perform, this agreement. The extent of the City's obligation under this section is

limited to the City's obligation under this section is limited to the City's obligation under the Oregon Constitution and ORS 30.260 through 30.300.

Mediation: Any controversy arising from the performance by the Contractor pursuant to this agreement or any question regarding interpretation of any term of or condition set forth in this agreement shall be attempted to be resolved by mediation before any legal action is taken by either party in any court of competent jurisdiction. A mediation panel shall be formed for each matter to be considered, consisting of one representative appointed by the City, one person to be appointed by the Contractor and a third neutral person to be agreed upon by the two appointed persons. The panel shall meet, hear the matter and recommend a resolution of the matter. The non-binding recommendation shall be submitted in writing to the parties for their consideration and possible agreement. Any costs of mediation shall be born by the parties as incurred.

Attorney Fees: In any action or proceeding before a court of competent jurisdiction regarding this Agreement, including any appeal taken therefrom, the prevailing party shall be awarded its costs including reasonable attorney fees.

Applicable Law: Each party shall comply with all applicable laws in the performance of this agreement. This agreement shall be interpreted and enforced in accordance with the laws of the State of Oregon.

Term: The term of this agreement is for the year beginning January 1, 2015 and ending December 31, 2017. Either party may request to negotiate adjustments to the services and contact amount annually. Either party may terminate this agreement with 30 days notice only for cause during the term. "Cause" shall include, but not be limited to, a City decision not to continue to provide a Visitors Center program or a loss or reduction in revenues to fund the program.

Authorized agents: The agents authorized to act for the respective parties on all matters relating to this contract are as follows:

The City's Agent: The Yachats City Recorder
The Contractor's Agent: ~~David Locke~~, Chamber President
Linda Hepler

IN WITNESS WHEREOF, the parties execute this agreement on the dates set forth below:

The City of Yachats

Dated: 1/8/15 B _____

Contractor

Dated: 1/10/15 B: _____
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