

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT, entered into this _____ day of _____, 2019, by and between the CITY OF CLEARWATER, a Florida municipal corporation, hereinafter referred to as "City," P.O. Box 4748, Clearwater, Florida 33758 and Bandwagon, LLC, a Louisiana limited liability corporation, hereinafter referred to as "Bandwagon," 612 Gravier St., New Orleans, LA 70130.

WHEREAS, the City requested professional services through Request for Proposals No. 40-19 seeking assistance from an experienced marketing and public relations firm in directing future marketing and public relations efforts, including web and social media, in an aggressive and comprehensive manner to strengthen awareness nationally and statewide of the City's attributes and offerings as a top vacation destination with an ultimate goal to attract more visitors; and

WHEREAS, Bandwagon agrees, pursuant to the Scope of Work as contained in Exhibit A attached hereto, to conduct tourism marketing and public relations activities;

NOW THEREFORE, in consideration of the promises stated herein, the City and Bandwagon mutually agree as follows:

1. SCOPE OF PROJECT.

Bandwagon agrees to provide professional services under the terms and conditions set forth in Request for Proposal (RFP), No. 40-19, Tourism Marketing Services, and Bandwagon's response dated May 26, 2019, and described in attached **Exhibit A – Scope of Work**.

2. TIME OF PERFORMANCE.

The term of this Agreement shall be for a period of two (2) years ("Initial Term") commencing on October 1, 2019 ("Commencement Date") and continuing through September 30, 2021 ("Termination Date") unless earlier terminated under the terms of this agreement. This Agreement may be extended for one (1), two (2) year renewal under the same terms and conditions by the mutual written agreement of both parties.

3. COMPENSATION.

The City will pay Bandwagon a sum of \$200,000 as described in **Exhibit B – Fee Schedule**. The City may, from time to time, require changes in the Scope of Work of Bandwagon to be performed hereunder. Such changes, including any increase or decrease in the amount of Bandwagon’s compensation and changes in the terms of this Contract which are mutually agreed upon by and between City and Bandwagon shall be effective when incorporated in written amendment to this Contract.

4. METHOD OF PAYMENT.

Bandwagon’s invoices shall be submitted to the City for approval for payment on a Net 30 basis. The City agrees to pay after approval under the terms of the Florida Prompt Payment Act F.S. 218.70.

The City’s performance and obligation to pay under this Contract is contingent upon an annual appropriation of the City’s budget.

5. NOTICES AND CHANGES OF ADDRESS.

Any notice required or permitted to be given by the provisions of this Contract shall be conclusively deemed to have been received by a party hereto on the date it is hand delivered to such party at the address indicated below (or at such other address as such party shall specify to the other party in writing), or if sent by registered or certified mail (postage prepaid) on the fifth (5th) business day after the day on which such notice is mailed and properly addressed.

Bandwagon, LLC
Stephen R Barry
Managing Member
612 Gravier St
New Orleans, LA 70103
(504) 635-2800

City of Clearwater
Denise Sanderson, Director
Economic Development & Housing
P.O. Box 4748
Clearwater, Florida 33758
(727) 562-4031

6. TERMINATION OF CONTRACT.

Termination by the City is pursuant to RFP No. 40-19 Terms and Conditions.

7. INDEMNIFICATION AND INSURANCE.

Bandwagon agrees to comply with all terms, provisions, and requirements contained in RFP No. 40-19 *Tourism Marketing Services*, made a part hereof as if said document were fully set forth at length herein.

Bandwagon shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives or agents to acquire and maintain) during the term with the City, sufficient insurance to adequately protect the respective interest of the parties. Coverage shall be obtained with a carrier having an AM Best Rating of A-VII or better. In addition, the City has the right to review the Contractor's deductible or self-insured retention and to require that it be reduced or eliminated.

Specifically the Vendor must carry the following minimum types and amounts of insurance on an occurrence basis or in the case of coverage that cannot be obtained on an occurrence basis, then coverage can be obtained on a claims-made basis with a minimum three (3) year tail following the termination or expiration of this Agreement:

- a. **Commercial General Liability Insurance** coverage, including but not limited to, premises operations, products/completed operations, products liability, contractual liability, advertising injury, personal injury, death, and property damage in the minimum amount of \$1,000,000 (one million dollars) per occurrence and \$2,000,000 (two million dollars) general aggregate.
- b. **Commercial Automobile Liability Insurance** coverage for any owned, non-owned, hired or borrowed automobile is required in the minimum amount of \$1,000,000 (one million dollars) combined single limit.
- c. **Professional Liability/Malpractice/Errors or Omissions Insurance** coverage appropriate for the type of business engaged in by the Respondent with minimum limits of \$2,000,000 (two million dollars) per occurrence. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the inception date of claims made coverage, unless the prior policy was extended indefinitely to cover prior acts. Coverage shall be extended beyond the policy year

either by a supplemental extended reporting period (SERP) of as great a duration as available, and with no less coverage and with reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made coverage.

- d. Unless waived by the State of Florida and proof of waiver is provided to the City, statutory **Workers' Compensation Insurance** coverage in accordance with the laws of the State of Florida, and **Employer's Liability Insurance** in the minimum amount of \$500,000 (five hundred thousand dollars) each employee each accident, \$500,000 (five hundred thousand dollars) each employee by disease, and \$500,000 (five hundred thousand dollars) disease policy limit. Coverage should include Voluntary Compensation, Jones Act, and U.S. Longshoremen's and Harbor Worker's Act coverage where applicable. Coverage must be applicable to employees, contractors, subcontractors, and volunteers, if any.

The above insurance limits may be achieved by a combination of primary and umbrella/excess liability policies.

Other Insurance Provisions.

- a. Prior to the execution of this Agreement, and then annually upon the anniversary date(s) of the insurance policy's renewal date(s) for as long as this Agreement remains in effect, the Vendor will furnish the City with a Certificate of Insurance(s) (using appropriate ACORD certificate, SIGNED by the Issuer, and with applicable endorsements) evidencing all of the coverage set forth above and naming the City as an "Additional Insured" on the Commercial General Liability Insurance. In addition when requested in writing from the City, Vendor will provide the City with certified copies of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

City of Clearwater
Attn: Purchasing Department, RFP #40-19
P.O. Box 4748
Clearwater, FL 33758-4748

- b. Vendor shall provide thirty (30) days written notice of any cancellation, non-renewal, termination, material change or reduction in coverage.
- c. Vendor's insurance as outlined above shall be primary and non-contributory coverage for Vendor's negligence.
- d. Vendor reserves the right to appoint legal counsel to provide for the Vendor's defense, for any and all claims that may arise related to Agreement, work performed under this Agreement, or to Vendor's design, equipment, or service. Vendor agrees that the City shall not be liable to reimburse Vendor for any legal fees or costs as a result of Vendor providing its defense as contemplated herein.

The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to the City, and City's failure to request evidence of this insurance shall not be construed as a waiver of Vendor's (or any contractors', subcontractors', representatives' or agents') obligation to provide the insurance coverage specified.

8. PROPRIETARY MATERIALS.

Upon termination of this Contract, Bandwagon shall transfer, assign and make available to City or its representatives all property and materials in Bandwagon's possession belonging to or paid for by the City.

9. INTERESTS OF PARTIES.

Bandwagon covenants that its officers, employees and shareholders have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance and/or provision of services required under the terms and conditions of this Contract.

10. CONFORMANCE WITH LAWS.

Bandwagon agrees to comply with all applicable federal, state and local laws during the life of this Contract.

11. ATTORNEY FEES.

In the event that either party seeks to enforce this Contract through attorneys at law, then the parties agree that each party shall bear its own attorney fees and costs.

12. GOVERNING LAW AND VENUE.

The laws of the State of Florida shall govern this Contract, and any action brought by either party shall lie in Pinellas County, Florida.

13. CONDITIONS AND ASSURANCES.

- A. Access to Records: Consultant agrees that Client or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant for the purposes of making audit, examination, excerpt, and transcripts.
- B. In addition to all other contract requirements as provided by law, the contractor executing this agreement agrees to comply with public records law.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 727-562-4092, Rosemarie.Call@myclearwater.com, 112 S. Osceola Ave., Clearwater, FL 33756.

The contractor's agreement to comply with public records law applies specifically to:

- 1) Keep and maintain public records required by the City of Clearwater (hereinafter "public agency") to perform the service being provided by the contractor hereunder.

- 2) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, as may be amended from time to time, or as otherwise provided by law.
- 3) Ensure that the public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- 4) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- 5) A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

- 6)** The contractor hereby acknowledges and agrees that if the contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.
- 7)** A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes.
- 8)** If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

 - a. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
 - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.
- 9)** A notice complies with subparagraph (8)b. if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- 10)** A contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date set forth above.

CITY OF CLEARWATER, FLORIDA

Countersigned:

George N. Cretekos
Mayor

By: _____
William B. Horne II
City Manager


Approved as to form:

Laura Mahony
Assistant City Attorney

Attest: _____
Rosemarie Call
City Clerk

BANDWAGON

Attest:



Print Name: Daphne M. Barry

By: 

Stephen R Barry
Managing Member

Exhibit A Scope of Work

Activities, objectives, deliverables and costs are for Year 1 only.

NYC CHEF EVENT & MEDIA MISSION

\$52,888.82

Services include event planning, media pitching, confirming media planners, strategic partnership development, and media mission on-site services.

Objectives:

- Obtain ten (10) confirmations from travel journalists to result in a minimum of two press hits within 18 months and build long-term relationships for pitching future Clearwater stories
- Encourage and confirm participation of at least two (2) Clearwater tourism stakeholders to participate on-site at the event in NYC
- Plan desksides to meet with a minimum of five (5) journalists while in NYC to result in three media hits within 18 months of the meetings
- Obtain confirmations from ten (10) meeting planners to attend event in NYC January 2019 and secure at least two (2) RFPs to share with local stakeholders within 18 months of the event

Deliverables:

- Chef event in NYC with a potential partnership with James Beard Smart Catch Program
- Integration of meeting planners into the event
- Support from *Small Market Meetings* magazine to invite and secure meeting planners for NYC event
- Event production fees
- Coordination of local partners to be on-site as Clearwater ambassadors
- Coordination of menu, food shipments, grocery shopping and more
- On-site decorations, activations, and interactive tools to engage media and meeting planners with Clearwater brand messages
- Event facility scouting and rental fees

- On-site staffing by Bandwagon
- Media pitching to secure media attendees
- On-going PR pitching services
- Media mission with desksides in NYC targeted at a minimum of five (5) top tier media who exhibit potential to publish coverage within selected brand narrative pillars
- Travel costs for Bandwagon team to be on-site

PRESS TRIPS

\$57,115.50

Press trip services include pitching, outreach to local stakeholders, itinerary planning and more.

Objectives:

- Host a minimum of eight journalists on press trips and secure a minimum AEV (advertising equivalency value) of \$175,000 of earned media within contract term limit
- Report a broader range of stories about Clearwater to potentially include grouper, stone crab, mural art, sustainability/eco-tourism, and accessibility

Deliverables:

- Two (2) group press trips for up to five (5) journalists on each trip and a maximum of five (5) individual press trips. Each press trip will be focused on specific destination brand narratives as a theme for the activities offered.
- Pitching services to meet number of press trips to be offered
- On-site staffing by Bandwagon team to lead press trips on an as needed basis
- Itinerary planning and development with local stakeholders
- Pre-trip communications and travel planning for journalists
- Post-trip communications and wrap-up report for each press trip
- Daily media monitoring
- Media clip evaluation by AEV (advertising equivalence value) and our proprietary *Content Grade™*

- Media clips alerts via email as they are published
- Distribution of media clips to local stakeholders who are featured
- On-going evaluation of PR services in the form of an ROI
- On-going management by PR strategist in the form of our Research, Planning, Implementation and Evaluation (RPIE) planning process
- Includes travel fees for journalists and Bandwagon on-site host

WEBSITE

\$36,960.00

Services include graphic design, project management, monthly hosting, content update services, development/coding costs, and necessary plug-ins to manage event calendar.

Objectives:

- Create a website with comprehensive information about: leisure travel, meetings/convention trade, destination weddings, ecotourism/sustainability, accessibility, and more
- Create a website with easy architecture to quickly find information on Clearwater's key brand pillars increasing site traffic by 5% within the first 6-months of the launch
- Through competitive analysis, establish a list of strengths and weaknesses in online content, keywords, and images
- Explore options for streamlining calendar of events and how stakeholders submit events

Deliverables:

- Competitive analysis focused on three (3) primary competitors
- Plan to maximize domain authority
- Quarterly review of domain authority to focus efforts on what new content will drive site growth
- Design and development of a new website
- Two (2) hours monthly of content updates
- Monthly analytics report
- Monthly hosting fees

- Daily backup and malware scan for protection against hackers and viruses
- Strategic partnership planning between local chambers and stakeholders for content development

CONTENT MARKETING

\$17,400.00

Services include on-going content building to amplify online presence and domain authority.

Objectives:

- Create custom content to help establish higher domain authority
- Create guidelines for sharing local stakeholder and industry partner content on VisitClearwaterFlorida.com
- Track success of new content via Google Analytics
- Track metrics such as time spent on site, number of pages viewed, top pages viewed and more to quantify a measurable increase in online engagement

Deliverables:

- Create 24 pieces of custom content in the form of either blogs, photos, photo slideshows, video clips, or other content that will boost domain authority and strengthen SEO
- Content will be created based on findings in the competitive analysis
- Content will also be used in PR pitches so that Bandwagon can encourage members of the press to write about experiences which are not as talked about in previous press coverage

STAKEHOLDER RELATIONSHIPS

\$8,135.68

Services include on-going outreach to local tourism industry stakeholders.

Objectives:

- Send out monthly e-newsletter to all local tourism stakeholders
- Attend a minimum of four (4) local industry events within contract term

- Plan at least 15 in-person stakeholder meetings and/or site tours to learn about new product, amenity upgrades, and how to better position existing tourism product

Deliverables:

- On-going outreach to stakeholders
- Monthly e-newsletter
- Quarterly time spent in-market meeting with stakeholders
- Attendance at local industry events which might include chamber tourism meetings, VSPC meetings, planning meetings with stakeholders, Ocean Allies, inn keepers meetings, Visit Florida events, and more
- On-going research to locate new industry stakeholders and explain opportunities for partnership with the city
- On-going relationship with Visit Florida field rep overseeing Clearwater area
- Fostering cooperative endeavors to remove duplication of effort and maximize budget's effectiveness
- Planning meeting with PIE to discuss flights for press trips

ACCOUNT MANAGEMENT

\$27,500.00

Services include those needed to manage account on a day-by-day basis and access to executive leadership for strategic planning and on-going evaluation of Bandwagon team.

Objectives:

- Keep all projects on-time and within budget
- Report monthly on detailed activities, insights, and next steps while including
- Plan quarterly in-person status meeting with contract manager

Deliverables:

- Day-to-day account maintenance
- One (1) monthly video conferences
- Project focused video conferences
- Monthly activity report and talking points for local meetings

- All travel expenses for Bandwagon team for meetings, site visits, press trips and other necessary events
- Bandwagon support staff and internal teams
- All postage, shipping and other related account management expenses

TOTAL

\$200,000.00

Exhibit B Fee Schedule

In consideration of the obligations and outlined direct expenses undertaken by BANDWAGON, the City of Clearwater shall pay BANDWAGON the sum of US \$16,666.67 (sixteen thousand six hundred sixty-six dollars and sixty-seven cents) per month for the 12-month period from October 1, 2019 to September 30, 2021, to be invoiced on a monthly basis.

BANDWAGON shall invoice the City of Clearwater on the first day of every month, to be due by the 30th of the month.

Additional expenses incurred on behalf of the City of Clearwater shall be at the cost of the City. Such costs are only to be incurred by BANDWAGON with prior written approval by the City of Clearwater.

Additional costs, as may be approved by the City of Clearwater in its sole discretion, shall be invoiced monthly, including a detailed description of such costs. Approved costs will be paid in accordance with the monthly payment schedule, by the 30th of the month invoiced.

In consideration of City entering into this Agreement with Bandwagon, Bandwagon covenants with City that Bandwagon shall unequivocally, timely and without reservation, comply with the terms and conditions and meet service level requirements as set out in Exhibit A. Bandwagon's failure to timely comply with any of the obligations hereunder during the term of this Agreement shall be deemed a material default resulting in termination of this Agreement.