

**TOURISM AND CONVENTION/EVENTS  
SALES AND MARKETING MANAGEMENT AGREEMENT**

This Agreement is made effective the 1st day of January, 2022, by and between Weber County, a body corporate and politic of the State of Utah, (hereinafter the “COUNTY”), and the Ogden/Weber Convention and Visitors Bureau, dba Visit Ogden, a non-profit corporation, organized under the laws of the State of Utah and having its registered office for business at 2411 Kiesel Ave., Ste 401, Ogden, Utah 84401, (hereinafter “VISIT OGDEN”). COUNTY and VISIT OGDEN are sometimes referred to individually as “Party” and collectively as “Parties.”

**RECITALS**

**WHEREAS**, COUNTY is in need of a sales and marketing program to facilitate the promotion and booking of conventions, meetings, and events at its publicly owned tourism venues; and

**WHEREAS**, COUNTY is also in need of a program to promote and foster tourism generally within Weber County through the booking of hotel rooms in conjunction with conferences, events, destination branding, and general tourism; and

**WHEREAS**, VISIT OGDEN is organized in a manner to serve the needs of the COUNTY relating to sustainably supporting and promoting the use of its tourism venues, attractions, recreation assets, and lodging facilities; and

**WHEREAS**, VISIT OGDEN has developed a marketing, sales, destination development, and stewardship plan (hereinafter the “Strategic Plan”) to better serve the needs of the COUNTY; and

**WHEREAS**, the Program is supported by public monies from tourism taxes levied by the COUNTY and it is the desire of the COUNTY to focus the main efforts of the Strategic Plan on the tourism venues owned by the people of Weber County, the booking of hotel rooms for events at those venues, initiatives to sustainably support the industry, and related tourism activities; and

**WHEREAS**, the Parties hereto enter into this Agreement in order to accomplish those objectives and have determined that the terms of this Agreement are mutually beneficial to each Party;

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained hereafter, the Parties agree as follows:

**SECTION ONE  
SCOPE OF SERVICES**

VISIT OGDEN shall be responsible to accomplish the following:

A. **Strategic Plan.** VISIT OGDEN shall submit on an annual basis a Strategic Plan containing a description of marketing, promotion, sales, and destination development activities with a statement of VISIT OGDEN's performance goals. A corresponding budget will be presented annually during the Weber County budgeting process. By this reference, the Strategic Plan shall be made a part of this Agreement and the terms thereof shall be deemed to be material terms, conditions, and covenants. The Strategic Plan shall be presented to the COUNTY no later than December 1<sup>st</sup> of each calendar year for review and approval by the Board of County Commissioners ("Commission"). The Commission shall give notice to VISIT OGDEN that it accepts the Strategic Plan, or that the Strategic Plan is unacceptable and shall state the reasons therefore. Commission approval and acceptance of the Strategic Plan for the next calendar year is a condition precedent for renewal of this Agreement for a subsequent calendar year. For example, if VISIT OGDEN fails to present a Strategic Plan by December 1<sup>st</sup>, or if VISIT OGDEN fails to present an acceptable Strategic Plan and negotiations between the COUNTY and VISIT OGDEN do not result in an agreed upon Strategic Plan by December 15<sup>th</sup>, then this Agreement shall terminate on December 31<sup>st</sup> and be of no further effect except as otherwise specified in this Agreement relating to COUNTY properties, accounting, unencumbered funds, and records. The Strategic Plan shall include the following:

1. **Visitor Promotion Awareness Programs.** VISIT OGDEN shall promote the Weber County area through marketing campaigns associated with a brand awareness program designed to promote the Weber County area as a destination for visitors. Marketing campaigns can include, but are not limited to, social, digital, and/or print campaigns. VISIT OGDEN will arrange for all details of a fully executed campaign as identified in the Strategic Plan. VISIT OGDEN will provide information to encourage experiential opportunities in Weber County including through venues, attractions, events, guides, and outfitters. VISIT OGDEN will create and distribute visitor information including to requested Weber County distribution locations.
2. **Group Business Sales.** In accordance with the Strategic Plan, VISIT OGDEN shall promote, sell, and book meetings, conventions, and events for County-owned, and other venues within Weber County. VISIT OGDEN shall participate in tradeshows, sales calls, site inspections, familiarization tours, and provide potential clients with proposals to encourage their booking in the Weber County area.
3. **Public Relations.** In accordance with the Strategic Plan, VISIT OGDEN shall engage with media to encourage press coverage of the Weber County area. VISIT OGDEN shall provide press releases, host media, and attend media events to encourage positive coverage of the Weber County area.
4. **Destination Development.** VISIT OGDEN shall establish working relationships

with the various Weber County departments and other community organizations to work towards agreeable destination development projects that provide value to the visitor economy and residents.

5. **Community Education.** VISIT OGDEN shall use its best efforts to educate frontline staff, hospitality businesses, and community organizations of the benefits of tourism to Weber County. This education should also include an awareness of recreation, cultural, and other events and experiences within Weber County to encourage development of area ambassadors throughout Weber County.
6. **State Agency Partnerships.** VISIT OGDEN shall establish an ongoing relationship with the Utah Film Commission and the Utah Sports Commission for the purpose of fostering Weber County as a venue for each. VISIT OGDEN shall also work with, as warranted, affiliated organizations such as Ski Utah, Utah Office of Outdoor Recreation, and the Utah Office of Tourism on marketing and public relations strategies and opportunities to showcase the Weber County area. VISIT OGDEN shall also work with the Utah Tourism Industry Association and Utah Association of Destination Marketing Organizations on legislative and state-wide tourism initiatives that further the support of, and positive impacts of, the tourism industry within the state.

## **SECTION TWO COUNTY FUNDING FOR VISIT OGDEN SERVICES**

In consideration of the services provided hereunder, the County shall pay to VISIT OGDEN for the performance of its duties hereunder, One Million One Hundred Twenty-Five Thousand Dollars (\$1,125,000) for the 2022 calendar year with twelve equal payments to be paid beginning on or about January 10th, 2022.

## **SECTION THREE ADMINISTRATIVE FUNCTIONS**

- A. **Management.** VISIT OGDEN shall provide day-to-day management activities including planning, purchase and acquisition of services, equipment, supplies, and facilities necessary to meet the objectives of the Strategic Plan for each of the areas outlined above. VISIT OGDEN shall cultivate community support. VISIT OGDEN shall also be responsible for all administrative and management functions and activities necessary to operate the services hereunder, including but not limited to personnel, internal budgeting and accounting, purchasing, insurance, maintenance, supervision, legal, printing, janitorial, utilities, and miscellaneous related services, all of which shall be at the cost and discretion of VISIT OGDEN subject to the requirements of the law and as defined herein. VISIT OGDEN shall work to employ and retain a superior staff so as to promote Weber County to business, group, and leisure visitors most effectively.

- B. **Records and Information.** VISIT OGDEN shall provide to the Commission upon request salary information on all employees (both part time and full time) of VISIT OGDEN. The report shall include total annualized compensation and be indicated by position, wages, salaries, benefits, contracted services, bonuses, and other allowances that may be taxable. Travel and expense records shall also be made available.

#### **SECTION FOUR OWNERSHIP OF ASSETS**

- A. **County Ownership.** Office equipment, displays, furniture, and fixtures of Fifty Thousand Dollars (\$50,000) or more shall be owned by the COUNTY and accounted for annually when purchased through COUNTY funds provided pursuant to this Agreement or any previous Agreement with the COUNTY. Purchase of such items with COUNTY funds in excess of Fifty Thousand Dollars (\$50,000) shall only be with approval of the Commission. Multi-year leases and installment purchase Agreements using COUNTY funds shall not be entered into without prior approval of COUNTY. VISIT OGDEN will provide a list of such items upon request to the County.
- B. **VISIT OGDEN Ownership.** Ownership of consumable assets such as office supplies and equipment or furniture with a value of less than Fifty Thousand Dollars (\$50,000) shall vest in VISIT OGDEN who shall have discretion as to purchase and sale thereof.
- C. **Intellectual Property Ownership.** Ownership of all intellectual property rights of whatever nature, including computer programs and any subsequently acquired by VISIT OGDEN, shall remain or be placed in the name of the COUNTY.

#### **SECTION FIVE RISK OF LOSS, BONDS, AND INSURANCE**

- A. Risk of loss of all property, fixtures, and personality used to provide services under this Agreement shall be upon VISIT OGDEN. VISIT OGDEN shall at its own expense furnish the following bonds and insurance to remain in full force and effect throughout the term of this Agreement.
- B. **Fidelity Bond.** Upon execution of this Agreement VISIT OGDEN shall furnish COUNTY with a fidelity bond in the amount of One Hundred Thousand Dollars (\$100,000) guaranteeing that the surety will reimburse COUNTY, its agents and employees for such pecuniary loss suffered by COUNTY, its agents or employees as may be sustained as a result of any act of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of VISIT OGDEN or any of its agents or employees, directly or indirectly. Said bond shall be issued by a responsible surety company authorized to do business within the State of Utah and shall be subject to approval as to form and content by COUNTY.

- C. **Liability Insurance.** VISIT OGDEN shall, at its own costs, secure and maintain during the term of this Agreement, including all additional terms, the following minimum insurance coverage: Commercial General Liability (CGL) insurance with contractual liability coverage to cover VISIT OGDEN's obligations under the indemnification section of this Agreement in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate. The policy(ies) shall be primary and noncontributory to any other policy(ies) or coverage available to the COUNTY whether such coverage be primary, contributing, or excess. If the CGL coverage is provided on a claims-made basis, VISIT OGDEN shall maintain such policy(ies) of insurance for no less than four years after termination of this Agreement.
- D. **Workers Compensation Insurance.** VISIT OGDEN shall secure workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable laws of the State of Utah and be issued for the benefit of each of the persons employed by VISIT OGDEN. Said insurance shall be kept in force during the entire term of this Agreement and shall contain the provision that the policy may not be canceled without sixty (60) days' notice to the COUNTY.
- E. **Failure to Provide Bonds and Insurance.** If bonds and insurance become unavailable or cost prohibitive, COUNTY and VISIT OGDEN shall negotiate an alternative acceptable to each.
- F. **No Waiver of Defenses.** By entering into this Agreement, the COUNTY does not waive defenses or limits provided by the Utah Governmental Immunity Act or any other law.

## **SECTION SIX BUDGETING**

- A. **Addendum/Amendment to Agreement.** The annual budget will be based upon the Strategic Plan approved by the Commission as an annual addendum to this Agreement.
- B. **Private Funding.** Private sector funding is the responsibility of VISIT OGDEN and shall be fully disclosed in the financial records, both as to amount and origin of cash contributions. Private sector funds will be expended only for activities that do not create a conflict with COUNTY or its intended purposes in entering into this Agreement.
- C. **Financial Reports.** VISIT OGDEN will prepare monthly financial reports and booking/marketing reports in a form approved by the Commission. Reports shall be submitted monthly to VISIT OGDEN's Board for review.

## **SECTION SEVEN RECORDS AND ACCOUNTING**

- A. **Record Keeping.** VISIT OGDEN shall keep and maintain full and accurate records of all operational activities, purchased assets, and receipts. Records shall comply in all respects with the requirements of COUNTY ordinances and policies and with any other requirements specified in writing by the Commission and the Weber County Clerk/Auditor. VISIT OGDEN shall accurately identify all costs and revenues associated with each program, activity, and operation of VISIT OGDEN.
- B. **Audit/Review.** Authorized personnel from COUNTY shall be permitted access to such records and to all books, papers, receipts, and records relative to the Strategic Plan upon reasonable notice to VISIT OGDEN and at any time during VISIT OGDEN's hours of operation. All receipt and expenditure records of private sector cash funds shall be available to COUNTY. Records of "in-kind" contributions, although available for review, shall remain confidential. Said records shall be maintained for at least three (3) years and be kept on VISIT OGDEN's premises. In-kind contributions are services or products provided by private enterprises which would have otherwise been provided by VISIT OGDEN or which VISIT OGDEN actively solicits from private enterprises. The accounting records for said contributions will include the date of each contribution, its purpose, the firm that provided the contribution, and the retail amount, or market value of the contribution.
- C. **Independent Audit.** VISIT OGDEN shall provide that an audit of VISIT OGDEN operations be performed annually by an independent firm of certified public accountants, approved by COUNTY, at a date specified by COUNTY and that a copy of the Audit Report shall be forwarded to the COUNTY.

## **SECTION EIGHT TERM AND TERMINATION**

- A. **Term and Renewal.** The term of this Agreement shall be for a period of four (4) years provided that the County approves the annual Strategic Plan which shall be submitted and approved as specified herein. In a year when compensation does not change, and the County approves the Strategic Plan, no amendment to this Agreement shall be necessary. In any year when an adjustment to compensation above the amount approved the previous year is made, a written amendment to this Agreement shall be made to reflect the amount and any change in services to be provided.
- B. **Termination.** Either party may terminate this Agreement without cause upon giving ninety (90) days written notice to the other Party. In the event of termination, VISIT OGDEN shall return any remaining unencumbered funds and shall return COUNTY-owned assets.
- C. **Strategic Plan Termination.** In the event COUNTY does not approve as provided herein the Strategic Plan submitted by VISIT OGDEN for the ensuing twelve (12) month

period, this contract shall expire automatically at the end of the period for which an approved Strategic Plan is then in effect.

## **SECTION NINE QUALITY OF SERVICE**

The Parties agree that COUNTY shall have the power to set standards for and to review and approve or disapprove of VISIT OGDEN's activities, operations, and conditions which may adversely reflect upon the Program and the COUNTY. The Commission shall have the right to require that any undesirable practices be remedied or discontinued. The aspects of VISIT OGDEN's functions and operations over which said power shall extend are the following:

- A. **Quality of Materials and Operations.** All Program literature, materials, brochures, or related items shall be of high quality and shall not contain any indecent, obscene or defamatory material. No materials protected by copyright or other intellectual property rights shall be produced, displayed or distributed without first acquiring the legal rights to do so.
  
- B. **Quality of Equipment.** All permanent or temporary facilities, supplies, equipment, fixtures or similar service, materials or equipment purchased or used by VISIT OGDEN for Program operations shall be of good quality for the service and use intended and adequate for the functions intended to be served. All permanently installed equipment and fixtures shall be of good quality and shall be fit for their intended use.
  
- C. **Equal Opportunity.**
  - 1. VISIT OGDEN agrees that it will not discriminate against any employee or applicant for employment on the basis of race, color, sex, religion, marital status, ancestry or national origin and shall take any necessary action including but not limited to hiring, promotion or demotion recruitment, layoff or termination, salary and selection for training as is necessary to ensure that all employees and applicants are treated equally as to the aforementioned bases.
  
  - 2. VISIT OGDEN and its employees shall not, in the performance of this Agreement, discriminate against any employee, customer, potential customer or other person on the basis of race, color, sex, religion, marital status, ancestry, or national origin and shall provide services, facilities and other privileges to all such persons equally.
  
- D. **Entry into Spaces.** COUNTY reserves to itself and to the duly-authorized representatives of COUNTY or other appropriate governmental agencies the right to enter upon and inspect VISIT OGDEN's facilities and all equipment related to the performance of services hereunder during VISIT OGDEN's normal working hours for the purposes of enforcing applicable business and health regulations and enforcing the

provisions of this Agreement. Right-of-entry is also reserved as to COUNTY's authorized representatives for any reasonable purpose provided the disruption of VISIT OGDEN's affairs is kept at a minimum.

- E. **Compliance with Governing Laws.** VISIT OGDEN and its agent and employees will comply with all federal, state and local laws and regulations and obtain and maintain all licenses, permits, and regulatory requirements.
- F. **VISIT OGDEN Director Evaluation.** Each year this Agreement is in effect, the governing board of the VISIT OGDEN, which per the bylaws shall include Commission representation, shall evaluate the performance of the VISIT OGDEN president/director. The evaluation shall include but not be limited to the success of the VISIT OGDEN in achieving the goals set forth in the Strategic Plan, the success of the VISIT OGDEN in cultivating community support and the success of the VISIT OGDEN president/director in leading and retaining a superior staff at the VISIT OGDEN. As part of the annual evaluation process, the board chair and executive committee of the VISIT OGDEN shall conduct an evaluation of the VISIT OGDEN president/director.

## **SECTION TEN LIABILITY**

- A. **Indemnification.** VISIT OGDEN shall indemnify and hold harmless the COUNTY and its agents, directors, officers, and employees from and against all suits, losses, damages, or any other causes of action (including attorney fees and costs) arising directly or indirectly from the performance of this Agreement. VISIT OGDEN's obligation to indemnify the COUNTY is not limited or waived in any way by compliance or non-compliance with the insurance requirements of this Agreement.
- B. **Conditional Limits on Liability.** Neither party shall assume or have any liability under this Agreement for the timely failure to furnish the services set forth herein due directly or indirectly to causes beyond the control and without the fault or negligence of the Parties including but not limited to: acts of God, acts of war or of terrorists, acts of the United States, any state or territory of the United States or any political subdivision of the foregoing, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or defaults or any subcontractor due to any of the above causes.
- C. **Limits of Liability.** COUNTY shall not be liable for any damage to or loss of any goods, merchandise or equipment used or stored at VISIT OGDEN's premises which loss or damage does not result directly from COUNTY's sole negligence.

## **SECTION ELEVEN MISCELLANEOUS**

- A. **Licensing and Taxes.** VISIT OGDEN shall be responsible for the acquisition and



maintenance of all licenses and permits necessary to conduct Program operations. All taxes due the United States, the State of Utah or local governments shall be paid by VISIT OGDEN.

- B. **Agency.** Quality of service provisions set forth herein notwithstanding, and review and approval of VISIT OGDEN's Strategic Plan, it is understood and agreed by the Parties that VISIT OGDEN, its agents, employees and representatives are not to be regarded as agents, representatives or a subdivision of COUNTY for any purpose and that the employees of VISIT OGDEN shall not be entitled to the benefits of nor be bound by the restrictions upon employment with Weber County. It is understood and agreed that with the exception of previously mentioned quality control requirements, COUNTY is not interested or involved in the means by which VISIT OGDEN performs its operations but only in the end products thereof and that VISIT OGDEN shall be considered an independent entity in all respects and for all purposes.
- C. **Assignment.** It is agreed that neither Party may assign, subcontract, or otherwise transfer the rights and responsibilities of this Agreement except upon the written consent of the other Party. If any assignment is made by written Agreement of the Parties, both the assigning Party and his assignee shall be bound by the terms and conditions of this Agreement.
- D. **Amendments.** This Agreement shall not be altered, modified or amended except upon the Agreement of both Parties and in writing executed by them. Changes which do not comply with this requirement shall not be binding upon either Party.
- E. **Laws of Utah.** It is understood and agreed to by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.
- F. **Separate Parts.** If any clause, sentence or section of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, such decision shall not affect the remaining portions and the Parties do now declare their intention that each such clause, sentence or section of this Agreement be a separate part hereof unless the removal of such clause, sentence or section substantially changes the very purposes of this Agreement.
- G. **Conflicts of Interest.** VISIT OGDEN shall provide in its corporate bylaws for a process to prevent, disclose, and resolve conflicts of interest and transactions with Board members, employees or other related Parties arising during the term of this Agreement. COUNTY shall be provided with copies of all applicable bylaw provisions and said provisions shall not be amended or repealed without thirty (30) days' prior written notification to the Commission of the exact language of the proposed amendment or specification of all language to be repealed. VISIT OGDEN shall provide the Commission with a written report detailing all actions, complaints, or other incidents

arising pursuant to, or in connection with these conflict-of-interest and related party provisions within thirty (30) days after verification to VISIT OGDEN. All relevant Parties shall be identified, the nature of their interest disclosed, and all votes recorded in the reports submitted.

- H. **Gifts.** VISIT OGDEN represents that no public official, employee or agent of COUNTY has received or will receive in the future any gift, offer of employment, or benefit, in violation of law, as a result of entering into or managing this Agreement and further represents that no agent or person has been hired or used to solicit or secure this contract on the understanding that a commission or contingent fee would be paid.
- I. **Ethics.** COUNTY desires to avoid the appearance or possibility of preferential treatment, conflicts of interest, competitive disadvantage, or undue influence consistent with the restrictions on public employees and officers under the Public Employee’s Ethics Act (“Act” 67-16-1 et seq., U.C.A.). VISIT OGDEN agrees to restrict or limit the conduct of employees by policy or by-laws or directives concerning the acceptance of personal gifts, trips, or other forms of compensation from current or proposed vendors, except for those gifts or payments authorized under the Act.
- J. **Board of Directors.** VISIT OGDEN shall provide in the by-laws of the corporation that the Commission shall have the right to serve on the Board or in the alternative appoint others to serve in their stead. At least one of those three shall be a member of the Executive Committee.

The persons who have executed this Agreement hereby certify that the necessary approvals of their respective organization have been granted and they have authority to bind their respective organizations.

*[signatures on following page]*

DATED this \_\_\_\_\_ day of March, 2022.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

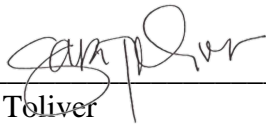
By \_\_\_\_\_  
Scott K. Jenkins, Chair

Commissioner Jenkins voted \_\_\_\_\_  
Commissioner Froerer voted \_\_\_\_\_  
Commissioner Harvey voted \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor

OGDEN/ WEBER CONVENTION AND  
VISITORS BUREAU, DBA VISIT  
OGDEN

By  \_\_\_\_\_  
Sara Toliver