

EXHIBIT 1 TO VBR RFP 7-2023-1

FORM OF CONTRACT

AGREEMENT

THIS AGREEMENT (the "Agreement", as such term is more fully defined in Section 17 below) is made and entered into effective, but not necessarily on, November 1, 2023 (the "Effective Date") by and between _____ ("Contractor,") and Visit Baton Rouge, a political subdivision of the State of Louisiana ("VBR").

BACKGROUND

A. A statutory purpose of VBR is the "promotion of tourism within the jurisdiction of the commission." LSA R.S. 33:4574(B). The Parish of East Baton Rouge is the jurisdiction of VBR, and is sometimes referred to hereinafter as the "Area."

B. Contractor was selected by VBR to render the Services, as such term is defined below, through a RFP process conducted by VBR (RFP No.: VBR RFP 7-2023-1).

C. In furtherance of its above stated statutory purpose, VBR wishes to enter into this Agreement with Contractor.

NOW THEREFORE, in consideration of the mutual promises, representations, warranties and covenants herein contained, VBR and Contractor hereby agree as follows:

1. Term.
 - a. Unless terminated earlier pursuant to Section 13 below or some other provision of this Agreement, the initial term of this Agreement shall be from the Effective Date until December 31, 2024 (the "Initial Term").
 - b. At the expiration of the Initial Term, VBR shall have the right to extend the Initial Term of this Agreement by twelve (12) months, until December 31, 2025, unless terminated early pursuant to Section 13 below or some other provision of this Agreement (the "Option Term"). VBR shall give notice to Contractor of its intention to exercise this right to extend the Initial Term not later than November 15, 2024.
 - c. Hereinafter, the Initial Term and the Option Term (should such option be exercised by VBR) is referred to as the "Term" of this Agreement.
2. Scope of Services.

To be completed by VBR and Contractor from the RFP and accepted Contractor Proposal.

This section will include a description of the nature of the Services to be rendered to VBR and to which the parties agree and may contain factors and process(es) by which both Contractor and VBR can (i) monitor and control VBR's cost and expense and (ii) evaluate the Contractor's performance.

3. Payment by VBR.

To be completed by VBR and Contractor from the RFP and accepted Contractor Proposal.

This section will include a description of the billing terms and conditions to which Contractor and VBR agree and may contain process(es) by which both Contractor and VBR can monitor and control VBR's cost and expense under this contract.

5. Taxes. As a political subdivision of the state of Louisiana, VBR represents and warrants that it is exempt from state and local sales and use taxes levied by Louisiana governmental entities. Except as expressly provided in some other provision of this Agreement, Contractor hereby agrees that the responsibility for payment of all taxes of any nature arising from or relating to this Agreement shall be Contractor's obligation. Contractor's tax identification number is _____.

6. Relationship. Pursuant to this Agreement, VBR and the Contractor are made independent contractors of each other. Nothing in this Agreement shall be deemed or construed by the parties hereto, or by any third party, as creating a relationship of employer and employee, principal and agent, or of partnership or joint venture between the any of the parties hereto. Contractor is not a political subdivision, agency, or instrumentality of VBR, the City-Parish of Baton Rouge, or the State of Louisiana. Nothing herein shall be construed to authorize Contractor to employ persons as employees of VBR. All personnel supplied or used by Contractor shall be its own employees or contractors and shall not be employees or contractors of VBR. No VBR benefits shall be available to the Contractor personnel. Contractor shall be solely responsible for all matters relating to the management and payment of its employees, including without limitation compliance with social security, withholding, and all other laws and regulations governing such matters and shall be solely responsible for all Contractor subordinates and employees.

7. Compliance with Law. Contractor will comply with all laws, ordinances, licensing requirements, rules and regulations of any and all governmental authorities, including without limitation of United States, the State of Louisiana, and the City-Parish of Baton Rouge. If Contractor performs contrary to such laws, ordinances, licensing requirements, rules or regulations, it shall assume full responsibility for and pay all fines and liabilities which result from the same. Contractor agrees that it shall not, in connection with rendering of the Services or the creation of any Contractor Materials, as such term is defined below, misuse, infringe or violate in any manner the copyright, rights of publicity, rights relating to name, image or likeness or other

intellectual property right(s) of any other entity, organization, or person, including without limitation VBR.

8. Non-Discrimination.

(a) Contractor agrees to abide by the requirements of the following statutes and order (and all rules and regulations issued thereunder), as applicable: the Civil Rights Act of 1964, as amended, the Equal Employment Opportunity Act of 1972, as amended, Federal Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended, Title IX of the Education Amendments of 1972, as amended, the Age Discrimination Act of 1975, as amended, the Fair Housing Act of 1968 as amended, and the Americans with Disabilities Act of 1990, as amended.

(b) Contractor further agrees that it shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement. Contractor shall insure that any of its sub-contractors comply with this sub-paragraph.

(c) Any act of illegal discrimination committed by Contractor, or failure to comply with these above statutory obligations when applicable shall be grounds for immediate termination of this Agreement by written notice to Contractor.

9. Indemnity, Defense, and Hold Harmless.

(a) Notwithstanding anything to the contrary, the Contractor agrees it shall protect, indemnify, defend, save, and hold harmless VBR, VBR's departments, committees or Board, its officers, directors, employees, and/or agents, including volunteers (collectively the "Indemnitees"), from and against any and all lawsuits, judicial or non-judicial actions and demands, valid and alleged claims, judgments, liabilities, losses, costs and/or expenses (including without limitation the costs of investigation and settlement, and reasonable attorney's fees and costs) (collectively "Demand(s)") from any person or entity, including without limitation third-parties to this Agreement, arising out of or related to (i) the breach of any of Contractor's duties, obligations, representations or warranties under the Contract or (ii) any act or omission (including but not limited to any negligent or intentional act or omission) of the Contractor, its officers, directors, employees, agents, servants, and contractors. The Contractor agrees to investigate, handle, respond to, provide a legal defense for, and otherwise defend any such Demand(s) at its sole cost and expense (including attorney's fees and costs) and agrees to bear all other costs and expenses related thereto, even if such relevant

Demand(s), proves groundless, false, or fraudulent. This indemnity provision shall survive the expiration of the Term for a period of three (3) years.

(b) An Indemnitee seeking Indemnification pursuant to this provision shall promptly notify the Contractor in writing of any claim for indemnification based upon a Demand, provided, that, failure to give such notice shall not relieve the Contractor of any liability hereunder (except to the extent the Contractor has suffered actual material prejudice by such failure). The Indemnitee shall tender sole defense and control of such Demand to the Contractor. The Contractor shall pay all costs and expenses related to or arising from the investigation, defense, judgement, or settlement of any such Demand as such costs are incurred, including without limitation attorney's fees and costs. The Indemnitee shall, if requested by the Contractor, give reasonable assistance to the Contractor in defense of any Demand(s). The Contractor shall pay or reimburse the Indemnitee for any legal fees and costs, and other expenses incurred which arise from or relate to the requested assistance as such costs and expenses are incurred. The Contractor shall have the right to consent to the entry of judgment with respect to, or otherwise settle, an indemnified Demand only with the prior written consent of the Indemnitee, which consent shall not be unreasonably withheld; provided, however, that the Indemnitee may withhold its consent if any such judgment or settlement imposes an unreimbursed monetary or continuing non-monetary obligation on such Indemnitee or does not include an unconditional release of the Indemnitee and its affiliates from all cost, expense, or liability in respect of claims that are the subject matter of the indemnified Demand.

10. Insurance. Contractor owns and maintain in force with duly licensed insurance carriers the following occurrence-based insurance (the "General Liability Insurance"): (i) worker's compensation insurance coverage adequate to comply with all statutory requirements covering all persons employed by Contractor hereunder and employer's liability with minimum limits of at least One Million Dollars (US\$1,000,000.00); (ii) commercial general liability insurance covering bodily injury and property damage with minimum limits of at least One Million Dollars (US\$1,000,000.00) for any claim arising out of a single occurrence and Five Million Dollars (US\$5,000,000.00) for all claims in the aggregate, and (iii) business auto liability insurance with a limit of not less than One Million Dollars (US\$1,000,000) each accident. Attached as Exhibit 10 to this Agreement is a list of the General Liability Insurance and all of Contractor's other insurance policies in force as of the Effective Date. The General Liability Insurance and the other insurance policies listed on Exhibit 10 are referred to as the "Contractor Insurance." During the Term, Contractor shall keep in full force and legal effect all policies of Insurance included in the Contractor Insurance. Prior to the Effective Date, Contractor shall deliver to VBR certificates of insurance evidencing the existence of the Contractor Insurance. Such certificates shall provide that such coverage will not be canceled or be the subject of a material adverse amendment without at least ten (10) days prior written notice to VBR and Contractor. With respect to the Contractor Insurance, unless VBR is made a named insured under the language of the insurance policy (such fact being shown on the certificates of insurance delivered to VBR above), Contractor shall have the policies include in the Contractor Insurance endorsed to show VBR as an additional name insured. Upon any cancellation and/or material adverse amendment of any such insurance coverage, and prior to the effective date of

such cancelation or adverse amendment, Contractor will deliver replacement insurance to VBR. VBR reserves the right to require Contractor to deliver to it a complete certified copy of any or all policies included in the Contractor Insurance at any time.

11. Staff Liaisons. Contractor agrees that _____, will act as the direct liaison and representative for VBR with respect to this Agreement. Contractor will keep such liaison fully informed with respect to relevant matters (including without limitation as set forth in Section 3 above) covered in this Agreement, and shall respond on a timely basis to any inquiry made by such liaison. VBR reserves the right to change or replace such liaison at any time. Contractor agrees that it appoints _____ as the primary liaison and representative for Contractor with respect to this Agreement and the Services. Contractor reserves the right to change or replace such liaison at any time.

12. Fiscal Responsibility. Contractor agrees to be fully and exclusively responsible for the payment of all sales, use, or other taxes imposed on any party as result of the Agreement, all withholding and social security taxes, employment benefits, insurance premiums and all other costs and expenses, including salaries and wages, related to its employees, agents or contractors. VBR shall not be responsible for any cost, expense, or obligation of Contractor of any type or nature whatsoever, including without limitation those mentioned in the previous sentence.

13. Trademarks and Copyrights. Only for the purposes of rendering the Services to VBR, and only during the term of this Agreement, VBR hereby grants to the Contractor a limited license and right to use the trademarks, images, tradenames, service marks, slogans, catchphrases, mottos, hashtags, logos, or other identifying images and/or marks of VBR (the "Marks"), and any copyrighted or copyrightable materials which include any of the Marks (collectively Marks and such derivative or incorporating materials are referred to as the "Intellectual Property"). All reproduction and use of the Intellectual Property shall be under the strict control and supervision of VBR. Each proposed use by Contractor of the Intellectual Property shall be approved by the VBR liaison in writing and in advance of such use. All Intellectual Property in whatever form supplied to the Contractor under this Agreement shall belong to and remain the sole property of VBR and Contractor shall not have or acquire any right to copy, reproduce, publish or use VBR's Intellectual Property except in connection with the specific purposes of and in accordance with this Agreement. Upon termination or expiration of this Agreement for any reason, Contractor is not entitled thereafter to use or refer to the Intellectual Property in any manner except for that Intellectual Property already embodied in materials related to the Services and for promotional materials related to Contractor's historical relationship to VBR. VBR represents and warrants to Contractor that it owns or controls or will own or control all of the Intellectual Property, and no third party holds or will hold any right of any nature or type, including without limitation copyright, which will be infringed upon or interfere in any manner with the obligations of Contractor or the rights of VBR hereunder.

14. Ownership of Records and Materials. . All records, reports, documents, and other material delivered or transmitted to Contractor by VBR, if any, shall remain the property of VBR,

and shall be returned by Contractor to VBR, at Contractor's expense, at termination or expiration of this Agreement. Unless provided to the contrary in some other provision of this Agreement, all advertisements, photographs, sketches, renderings, drawings, video productions, records, data, reports, documents, instruments, trademarks, images, tradenames, service marks, slogans, catchphrases, mottos, hashtags, logos, or other identifying images and/or marks, or other materials in any form or format related to this Agreement and/or created or prepared by or for Contractor in connection with performance of the Services ("Contractor Materials"), if any, shall be deemed the property of VBR. With respect to any intellectual property rights, including without limitation copyright, relating to or contained in such Contractor Materials (the "Contractor IP"), Contractor hereby grants to VBR a perpetual and continuing license to exploit, alter, manipulate, modify, and otherwise utilize such Contractor IP in any manner VBR sees fit (in VBR's sole and absolute discretion) in connection with VBR's business and/or other lawful activities. In connection with such license, VBR shall have the full right to retain, exploit, alter, manipulate, modify and use such Contractor Materials and Contractor IP in its business and/or other lawful activities as VBR sees fit in its sole and absolute discretion. Further, notwithstanding anything to the contrary herein, Contractor agrees that upon the request of VBR that it shall unconditionally assign or cause to be assigned to VBR, in writing without cost or expense to VBR, the full and complete right and title to any portion of the Contractor IP or Contractor Materials. Contractor represents and warrants to VBR that it owns or controls or will own or control all of the Contractor Materials and/or Contractor IP, and no third party holds or will hold any right of any nature or type, including without limitation copyright, right of publicity, or rights relating to name, image, and likeness, which will be infringed upon or interfere in any manner with the obligations of Contractor or the rights of VBR hereunder. Notwithstanding the foregoing, Contractor specifically agrees that to the extent determined by VBR in its sole and absolute discretion, such Contractor Materials in VBR's possession shall be considered public records subject to the Louisiana Public Records Law, La. R.S. §44:1 *et seq.*

15. Termination.

(a) Early Termination. This Agreement may be terminated by either party if there is a material breach, failure to perform or default by the other party in the performance of any of its material obligations, representations, or warranties provided for in this Agreement, and such breach, failure to perform, or default, if curable, is not cured within thirty (30) business days of the defaulting party's receipt of written notice from the other party. VBR may terminate the Agreement at any time without cause by giving Sixty calendar (60) days written notice to Contractor.

(b) Transition to New Agency. At the final termination of this Agreement, the Contractor agrees that it shall use its best efforts to assist VBR to (i) transfer its branding and/or public relations business handled by Contractor to another contractor or to its in-house operation. Upon final termination of this contract, Contractor shall transfer, assign and make available to VBR, or its representative, all property and materials in Contractor's possession or control belonging to VBR, and all data and information regarding the Services rendered by Contractor hereunder.

16. Force Majeure Event. In the event either party fails or is unable to carry out its material obligations under this Agreement by reason of a Force Majeure Event (as defined below), for so long as the Force Majeure Event continues, such failure shall not constitute a breach of this Agreement by such party. As used herein, the term "Force Majeure Event" shall mean the occurrence of an event outside the reasonable control of either party such as illness or death; accident; an act or regulation of public authority; fire; riot or civil commotion; labor dispute; terrorist acts or threats; acts or declarations of war; disease; epidemic; substantial interruption in, or substantial delay or failure of, technical facilities; failure or substantial and extraordinary delay of necessary transportation services; war conditions; emergencies; severe inclement weather or acts of God.

17. Incorporation by Reference. This is made pursuant to that certain VBR RFP 7-2023-1 (the "RFP"), a copy of which is attached hereto as Exhibit "A" and incorporated herein with full legal force and effect, as if the full text of such document were included here. Further, the response of Contractor to the RFP (the "Contractor Proposal") is attached hereto as Exhibit "B" and incorporated herein with full legal force and effect as if the full text of such document were included here. For all purposes, the parties agree, that this "Agreement" shall consist of the Text, the RFP, and the Contractor Proposal (along with any attachments or exhibits to any of them). For purposes of the construction, interpretation, and implementation of this Agreement, the order of precedence shall be: (i) the text of the body of this Agreement (the "Text") shall be primary and govern and control any conflicts between the Text and either the RFP or the Contractor Proposal; and (ii) between the RFP and the Contractor Proposal, the RFP shall be primary and control any conflicts between the RFP and the Contractor Proposal. The parties further agree that all references to a period of days found in any provision of the Text, the RFP, or the Contractor Proposal, unless expressly stated to the contrary in the relevant provision, shall refer to business days without inclusion of weekends or holidays.

19. Miscellaneous.

(a) Authority of Contractor. Contractor acknowledges that Contractor is not authorized to act on behalf of VBR unless and until VBR has expressly and specifically authorized such Contractor action in a writing signed on behalf of VBR, (such writing and signature may be transmitted electronically). Such approval by VBR may be embodied in an approved creative campaign budget or comprehensive branding plan.

(b) Tax Exempt Entity. Contractor acknowledges that the VBR is a political subdivision of the State of Louisiana and as such is a tax-exempt entity. Contractor will not bill or charge any sales or use tax of any nature to VBR. VBR will provide appropriate tax-

exempt documentation to Contractor for use in Contractor purchases, to the extent applicable.

(c) Binding Effect. This Agreement shall be binding on the parties hereto, their heirs, legal representatives, successors and permitted assigns of the parties.

(d) Integration and Assignment. This Agreement, including all exhibits attached hereto or expressly referred to herein contains the entire agreement between the parties hereto with respect to the matters and transactions contemplated herein and supersedes and supplants any and all prior agreements with respect thereto. Neither this Agreement nor any rights or obligations under it are assignable without the written consent of the other party, with such consent not to be unreasonably withheld.

(e) Governing Law. This Agreement is made in and shall be governed by and construed and enforced in accordance with the laws of the State of Louisiana without reference to any conflict of laws provisions contained therein.

(f) Execution in Counterparts. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

(g) Amendments: Waivers. This Agreement and any schedule or exhibit attached hereto may be amended only by agreement in writing of all parties. Except as otherwise provided herein, no waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the party to be bound and then only to the specific purpose, extent and instance so provided. No failure on the part of any party to exercise or delay in exercising any right hereunder shall be deemed a waiver thereof, nor shall any single or partial exercise, or failure to exercise, preclude any further or other exercise of such or any other right.

(h) Headings. The headings of the various paragraphs herein have been included for convenience of reference only and shall not affect in any way the express provisions of this Agreement.

(i) Severability. If any provision of this Agreement or any other instrument or document or exhibit referred to herein or delivered hereunder shall be held invalid under any applicable laws, such invalidity shall not affect any other provision of this Agreement or any other agreement or document or exhibit referred to herein or delivered hereunder that can be given effect without the invalid provision, and, to this end, the provisions hereof and thereof are severable.

(j) Jurisdiction, Venue. THE PARTIES HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY CITY OR STATE COURT OF COMPETENT JURISDICTION IN EAST BATON

ROUGE PARISH, LOUISIANA AND ALL APPELLATE COURTS THEREOF, FOR ALL PURPOSES RELATING TO THIS AGREEMENT.

(k) Parties in Interest. This Agreement shall be binding upon and inure to the benefit of each party, and nothing in this Agreement, express or implied, is intended to confer upon any third person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement is intended to relieve or discharge the obligation of any third person to (or to confer any right of subrogation or action over against) any party to this Agreement.

(l) Limitation on Damages. In no event shall either party hereto be liable to the other party for indirect, incidental, consequential, punitive, reliance or special damages, including without limitation, damages for lost profits, advantage, savings, or revenues of any kind or increased cost of operations, even if that party has been advised of the possibility of such damages.

(m) Recovery of Legal Fees. If any legal action or any arbitration or other proceeding, including any bankruptcy proceeding, is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the Prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled. "Prevailing Party" within the meaning of this Agreement includes, without limitation, a party who agrees to dismiss an action or proceeding upon the other's payment of sums allegedly due or performance of covenants allegedly breached, or who substantially obtains the relief sought by it.

(n) Notices. Any notice, communication, request, reply or advice (hereinafter severally and collectively called a "Notice") required or permitted to be given, made, or accepted by any party in this Agreement must be in writing and may be given or served by depositing the same, postage prepaid and registered or certified with return receipt requested in the U. S. Mail, by delivering the same in person to the person to be notified, or by sending same all charges prepaid by any nationally recognized overnight parcel delivery service, including without limitation Federal Express. Notice deposited in the mail, or by with a national overnight delivery service in the manner herein described shall be effective when so deposited. Notices sent by hand delivery shall be effective when actually received by the addressee. For purposes of any Notice the address of the parties shall, until changed as hereinafter provided, be as follows:

If to VBR:

Visit Baton Rouge
Attention: Ms. Jill C. Kidder
359 Third Street
P.O. Box 4149
Baton Rouge, LA 70821
Phone: 225-383-1825

Email: Jill@visitbatonrouge.com

If to Contractor:

or to such other addresses as the parties may advise the other in writing.

The remainder of this page intentionally left blank.

DONE AND SIGNED by VBR at Baton Rouge, Louisiana, on the ____ day of _____, 2023.

WITNESSESS:

Printed name: _____

Printed name: _____

VBR:

Visit Baton Rouge

By: _____

Jill C. Kidder, President & CEO

DONE AND SIGNED by Contractor at _____ on the ____ day of _____, 2023.

WITNESSESS:

Printed name: _____

Printed name: _____

Contractor:

By: _____

Its: _____