

CONTRACT FOR SERVICES
BETWEEN THE CITY OF SUN VALLEY, IDAHO AND
THE SUN VALLEY MARKETING ALLIANCE
FOR FISCAL YEAR 2013

THIS CONTRACT FOR SERVICES, (hereinafter referred to as "Contract") made and entered into this ____ day of December, 2012, by and between the CITY OF SUN VALLEY, IDAHO, a municipal corporation (hereinafter referred to as "the City") and the SUN VALLEY MARKETING ALLIANCE, Inc. an Idaho nonprofit corporation with an IRS 501 (c)(6) designation, (hereinafter referred to as "SVMA").

FINDINGS

1. Sun Valley is a municipal corporation duly organized and existing under the laws of the State of Idaho § 50-101 et seq.
2. SVMA is an Idaho non-profit corporation with an IRS 501(c)(6) designation engaged in the business of domestically and internationally marketing the Sun Valley, Idaho resort area as a destination resort.
3. Sun Valley is a destination resort city as defined by Idaho Code § 50-1044 as it derives a major portion of its economic well being from businesses catering to the recreational needs and meeting the needs of people traveling to the Sun Valley area. As a resort city Sun Valley is eligible to and does collect a local option non-property tax.
4. Pursuant to Idaho Code § 50-301 and § 50-302, Sun Valley is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City and its trade, commerce and industry. Accordingly, Sun Valley has the power as conferred by the State of Idaho, to provide directly for certain promotional activities to enhance the trade, commerce, industry, and economic well being of the City.
5. Sun Valley City Ordinance No. 398 provides for the imposition of a non-property tax on the sales price of certain goods sold or otherwise transferred in Sun Valley. Pursuant to the language of the Ordinance, which was approved by the voters of Sun Valley, the municipal sales tax revenue derived shall be used for, among other things, municipal transit, public information and education, and economic development activity.

6. The primary reason for the City to enter this Contract is to increase Local Option Tax revenues, to wit: those generated by retail sales, food, meals or drinks, ski tickets, lodging, and liquor by the drink in the City of Sun Valley.
7. SVMA is to establish, implement, maintain, fund, and operate a comprehensive marketing program for the Sun Valley resort area.
8. The Organizational Goals of SVMA are consistent with the purposes and findings of Sun Valley Ordinance No. 389.
9. It is the intention of Sun Valley to contract with SVMA to provide such services for consideration as hereinafter provided.
10. SVMA desires to enter into a contract with Sun Valley to provide marketing services all as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, it is agreed by and between the City and the SVMA as follows:

1. Services To Be Provided.

1. SVMA agrees to provide Sun Valley resort area marketing services to the City as follows and as further set forth in Exhibit A, which is incorporated herein by reference. For the purposes of this Agreement, the "Sun Valley resort area" means the cities of Sun Valley and Ketchum, Idaho and associated tourist attractions. The marketing services are described in the attached Exhibit A which includes:
 - a. A written summary of the annual strategic and operational plans.
 - b. Execution upon the plan to superintend over the Ride Sun Valley and USA Cycling Mountain Bike Marathon National Championships events in July, 2013.
2. SVMA agrees that it shall provide, at its sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, liability insurance, fidelity bonds, and all necessary equipment and facilities required to provide the services as set for in this Contract.

3. Term. The term of this Contract shall commence upon the day of its execution and shall terminate on the 30th day of September, 2013.
4. Consideration. In consideration for providing the services herein described the City agrees to pay to SVMA the total sum of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) payable in twelve equal monthly installments no later than the 15th day of each month. SVMA will provide the City each month during which SVMA performs services hereunder with an invoice setting forth the amount of the installment due for each month; the City shall pay SVMA the amount set forth in such invoice no later than thirty (30) days after the date of such invoice. The invoices shall be mailed to the City no later than the following dates: the 1st day of each month.

a. In consideration and as part of this Contract SVMA agrees to:

- i. Provide to the City:
 1. Written operational highlights on operational and strategic plans twice per quarter
 2. Written quarterly progress reports towards annual performance metrics specified in Exhibit B which is incorporated herein by reference;
 3. A Quarterly Income Statement and a current Balance Sheet;
- ii. Maintain complete records of all written, electronic and oral complaints received by it from tourists regarding air and ground transportation and tourist facilities in the Sun Valley resort area.
- iii. Exercise due diligence to obtain from member businesses and other entities, which may be of interest to tourists and visitors to the Sun Valley area, all digital and printed promotional and informational material that may be reasonably available and cause that information to be distributed at the visitor center and/or on the Visit Sun Valley website, as applicable. Non-member businesses may obtain a simple listing by category (name of business, address and phone number) on the www.visitsunvalley.com website upon request.

- iv. The SVMA will:
 - 1. Provide to the Sun Valley City Council at a regular meeting once each Quarter, a presentation outlining the quarterly information in (i) above; and
 - 2. Provide to the City at SVMA's expense externally prepared financial reviews (actual P&L and year-end balance sheet) on an annual basis and;
 - 3. Provide to the City all SVMA financial information at any time for any reason.
 - 4. Provide IRS form 990 within thirty (30) days of filing.
- v. Provide SVMA's bylaws to the City and advise the City within two (2) business days in writing of any proposed changes to the bylaws or proposed changes to the organizational structure.
- vi. Ensure that all SVMA Board meetings are noticed at least 30 days in advance and that such board meetings be open for public attendance.
- vii. Provide to the city council a proposed detailed work statement and draft contract for fiscal year 2014 by 15 July 2013 to facilitate proper planning and budgeting by the city and the SVMA.
- viii. Provide, upon request, detailed compensation information for all employees.
- b. Quarterly reports will be based on the government fiscal year of October 1st to September 30th. The quarterly reporting schedule for Sun Valley City Council meetings will be as follows, unless notice is given to SVMA of a schedule change, with written notice to SVMA.
 - i. Quarterly report for the first quarter: Monthly Regular Council Meeting – January 3, 2013
 - ii. Quarterly report for second quarter: Monthly Regular Council Meeting – April 4, 2013

- iii. Quarterly report for third quarter: Monthly Regular Council Meeting – July 3, 2013
 - iv. Quarterly report for fourth quarter: Monthly Regular Council Meeting – October 3, 2013
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- 5. Termination. The City may, at its sole discretion, terminate this Contract immediately upon written notice to SVMA with or without cause. In the event of such termination, The City shall have no further responsibility to make any payment to SVMA under this Contract. The City reserves the right to request an independent audit under the provisions herein upon termination, and such audit obligation and cost on the part of SVMA shall survive any termination of this Contract.
 - 6. Equal Employment Opportunity. SVMA covenants that it shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin.
 - 7. Independent Contractor Status. The parties acknowledge and agree that SVMA shall provide its services for the fee specified herein in the status of independent contractor, and not as an employee of the City. SVMA shall create, direct, and control its own means and methods of performing this Contract. SVMA and its agents, members, employees, and volunteers, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the City. The sole interest and responsibility of the City under this Contract is to assure itself that the services covered by this Agreement shall be performed and rendered by SVMA in a competent, efficient and satisfactory manner and that full transparency with respect to all financial details of the SVMA organization (including detailed compensation data) be provided to the City and, therefore, to its citizens.
 - 8. Hold Harmless Agreement. Any contractual obligation entered into or assumed by SVMA, or any liability incurred by reason of personal injury and/or property damage in connection with or arising out of SVMA's obligations pursuant to this Contract shall be the sole responsibility of SVMA, and SVMA covenants and agrees to indemnify and hold the City harmless from any and all claims or causes of action arising out of SVMA's activities and obligations as set forth hereinabove, including, but not limited to, personal injury, property damage, and employee complaints.
 - 9. Non-Assignment. This Contract may not be assigned by or transferred by SVMA, in whole or in part, without the prior written consent of the City.

10. Mediation/Arbitration. In the event of any controversy, claim or dispute between the parties concerning this Contract or the breach of this Contract, including questions concerning the scope and applicability of this dispute resolution provision, the parties agree to participate in good faith in a mediation of said dispute in Blaine County, Idaho. If mediation is unsuccessful then the dispute shall be finally settled by binding arbitration in Blaine County Idaho, pursuant to the rules then applying of the American Arbitration Association and the laws of the State of Idaho. The decision or award in writing of the arbitrator shall be binding and conclusive on the parties to this Contract. The arbitrator shall have no power to award punitive or exemplary damages.

11. Miscellaneous Provisions.

- a. Paragraph Headings. The headings in this Contract are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Contract or any of the provisions of the Contract.
- b. Provisions Severable. Every provision of this Contract is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.
- c. Rights and Remedies are Cumulative. The rights and remedies provided by this Contract are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Contract are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- d. Successor and Assigns. This Contract and the terms and provision hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.
- e. Entire Contract. This Contract contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matters.
- f. Governing Law. This Contract shall be construed in accordance with the laws of the State of Idaho.

- g. Preparation of Contract. No presumption shall exist in favor of or against any party to this Contract as a result of the drafting and preparation of the document.
- h. No Waiver. No waiver of any breach by either party of the terms of this Contract shall be deemed a waiver of any subsequent breach of the Contract.
- i. Amendment. No amendment of this Contract shall be effective unless the amendment is in writing, signed by each of the parties.
- j. Notices. Notices hereunder shall be by personal delivery or US Mail Certified/Return Receipt and shall be deemed effective upon such personal delivery or two (2) business days after mailing, whichever is later. Notices shall be provided as follows:

- a. City: City of Sun Valley
P.O. Box 416
Sun Valley, ID 83353
- b. SVMA: P.O. Box 4934
Ketchum, Idaho 83340

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

CITY OF SUN VALLEY, IDAHO

SUN VALLEY MARKETING ALLIANCE,
INC.

By: _____
Dewayne Briscoe
Mayor

By: _____
Its: _____

DATE: _____

DATE: _____

Attest:

Hannah Stauts, Clerk

DATE: _____