

**AGREEMENT FOR ADMINISTRATION OF
“PARKING AND BUSINESS IMPROVEMENT AREA”**

(City of Grass Valley / Grass Valley Downtown Association)

1. IDENTIFICATION

This AGREEMENT (“Agreement”) is entered into by and between the City of Grass Valley, a California municipal corporation (“City”), and the Grass Valley Downtown Association, a California nonprofit tax-exempt corporation (“GVDA”).

2. RECITALS

- 2.1. This agreement is made pursuant to Chapter 12.40 of the Grass Valley Municipal Code (the “PBID Ordinance”) and Section 36530 of the California Street and Highway Code, which provides that the City Council may contract from time to time with GVDA, a nonprofit tax-exempt corporation, to help the City administer the Downtown Parking and Business Improvement District (“PBID”) the City formed under what is now the Parking and Business Improvement Area Law of 1989. (Sts. & Hy. Code, § 36500 et seq. (the “1989 PBID Law”).)
- 2.2. Section 12.40.120 of the PBID Ordinance appoints GVDA as the advisory board described in Sts. & Hy Code § 36530.
- 2.3. This Agreement replaces the previous Agreement for Administration of “Parking and Business Improvement Area” dated August 28, 1981 in its entirety.
- 2.4. GVDA is qualified to take on the role described for it in the PBID Ordinance and this Agreement, and to perform the tasks described herein.
- 2.5. GVDA represents that it is willing to accept responsibility for performing such activities in accordance with the terms and conditions set forth in this Agreement.
- 2.6. GVDA represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent GVDA from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and GVDA agree as follows:

3. DEFINITIONS

- 3.1. “Agreement Administrator”: The Agreement Administrator is the City Manager or their appointee. The Agreement Administrator shall be the principal point of contact at the City for this agreement.
- 3.2. “Commencement Date”: January 1, 2025.

- 3.3. “Termination Date”: the date specified in a notice of termination given pursuant to Section 13 of this Agreement.

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date, said contract will continue thereafter from year to year until so terminated under Section ~~13~~14 (“Termination”) below.

5. GVDA’S DUTIES

- 5.1. **Budget.** Pursuant to Section 12.40.120 of the PBID Ordinance, ~~prior to the 1st day in June~~ of each ~~March~~year, the GVDA shall present a budget of proposed expenditures to the City Council for consideration for the next fiscal year starting July 1st, and report to the City Council upon the advisability and feasibility of the proposed expenditures and improvements, which, when approved by the Council, shall constitute the budget for the GVDA for the ensuing fiscal year as it pertains to the use of funds from the PBID. The budget shall also break down proposed expenditures per Section 12.40.050 “Use of Revenues” by dollar amount per each category (A. through F.). In the event of a material change of circumstances after said budget has first been approved, a supplemental or modified budget request may be submitted and considered by the Council and if so approved, said modified and subsequently approved budget shall replace the previously approved budget for the remainder of that fiscal year.
- 5.2. **Activities.** GVDA shall perform the activities identified in the annually approved budget (the “Activities”).
- 5.3. **Coordination with City.** In performing Activities under this Agreement, GVDA shall coordinate all contact with City through its Agreement Administrator.
- 5.4. **[Reserved.]**
- 5.5. **Permits/Licenses.** GVDA shall obtain and maintain in force all permits and licenses required to hold events from the City and/or other State/County permits/licenses for the duration of this Agreement.
- 5.6. **Standards.** GVDA shall perform all activities in a manner reasonably satisfactory to City. GVDA shall make diligent, good faith efforts to keep itself informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement.
- 5.7. **Appropriate Personnel.** GVDA has, or will secure at its own expense, all personnel required to perform the Activities. All such Activities shall be performed by GVDA or under its supervision, and all personnel engaged in the work shall be qualified to perform such Activities. GVDA’s Executive Director shall be GVDA’s agreement administrator and shall have direct responsibility for management of GVDA’s performance under this Agreement. No change shall be made in GVDA’s agreement administrator without prior written notice to the City.

- 5.8. **Permits and Approvals.** GVDA shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for GVDA's performance of this Agreement. This includes, but shall not be limited to, licenses, encroachment permits, Special Event Permits, and Environmental Health Permits.
- 5.9. **Notification of Organizational Changes.** GVDA shall notify the Agreement Administrator, in writing, of any change in name or control of GVDA. Change of control of GVDA may require an amendment to this Agreement.
- 5.10. **Records.** GVDA shall maintain all ledgers, books of account, invoices, vouchers, canceled checks, receipts, and other records or documents evidencing or relating to charges for activities or expenditures and disbursements and supporting documentation made pursuant to the provisions of this agreement for a minimum of three (3) years, or for any longer period required by law. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three years after final payment under this Agreement.
- 5.11. **General Prohibition.** This Agreement covers activities of a specific and unique nature. Except as otherwise provided herein, GVDA shall not assign or transfer its interest in this Agreement or subcontract any activities to be performed without an amendment to this Agreement.
- 5.12. **Use Of Funds.** All funds received by the GVDA pursuant to this contract shall be used for purposes approved by the City Council in the budget.
- 5.13. **Voluntary Contributions To The GVDA.** Any funds collected by voluntary contribution by GVDA from whatever source, shall not be subject to an accounting to the City Council; provided, however, that in any budget presentation to the City Council, GVDA shall report the amount of funds proposed to be used, derived from any source, so the City Council may appropriately determine the feasibility of the Activities, and the ability of GVDA to finance them.

6. DISTRIBUTION OF ASSESSMENTS

6.1. Distribution and Reporting Obligations of GVDA and City.

- 6.1.1. **General.** City agrees to distribute to the GVDA the assessments collected by the City pursuant to Section 12.40.060 of the PBID Ordinance ("Assessments") to provide for the Activities approved annually under this Agreement less: (i) an amount of one percent (1%) to recover the City's costs to administer the PBID and the Assessments; and (ii) any amounts to be withheld pursuant to the "Memorandum of Understanding" between the GVDA and City for the Downtown Bathroom Building Project dated as of September 26, 2024.
- 6.1.2. **City Collection Reporting.** No later than April 30 of any year, City shall use its best efforts to report to GVDA on the Assessments collected by the City during the

period from April 1 of any year to March 31 of the following year (the “Collection Report”). The Collection Report will show the amounts paid by each business within the PBID during the period as well as delinquencies owed by any specific business. GVDA will keep delinquencies and all related information confidential and use them only to enforce the duty to pay the assessment.

- 6.1.3. **GVDA Quarterly Reports.** GVDA shall provide summary accountings to the City at least quarterly in substantially the format attached hereto as Exhibit A (which form may be amended by an amendment to this Agreement) showing ~~revenues and~~ expenditures associated with each of the Activities conducted by the GVDA. Quarterly reports shall also break down expenditures per Grass Valley Municipal Code Section 12.40.050, “Use of Revenues,” by dollar amount per each category (A. through F.), and shall be due to the City within 30 days of the end of the quarter.
- 6.1.4. **GVDA Final Report and Budget.** In June of each year, GVDA shall provide an Annual Account of Funds report to the City detailing final ~~revenues and~~ expenditures for Activities conducted under this Agreement during the preceding fiscal year, any remaining funds approved by City Council, and a budget for proposed expenditures during following fiscal year. The annual reports shall break down expenditures per Grass Valley Municipal Code Section 12.40.050, “Use of Revenues,” by dollar amount per each category (A. through F.). GVDA shall not be reimbursed for any expenses unless provided for in this Agreement, a budget approved by the City, or otherwise authorized in writing by the Agreement Administrator in advance.
- 6.1.5. **Distribution by City and Notification by GVDA.** Except as otherwise agreed, within 30 days after receiving the Collection Report for April 1 to March 31, GVDA shall submit to the City a request for distribution of eighty percent (80%) of all collections shown on the Collection Report. After receiving GVDA’s Annual Account of Funds report under Section 6.1.4 and no later than June 30 of each year, City will distribute to the GVDA eighty percent (80%) of the annual Assessments received to date, less the City’s one percent (1%) administrative and other applicable costs pursuant to Section 6.1.1 of this Agreement. GVDA shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the total Assessments distributable to GVDA hereunder. Within 30 days of receiving this notice, Agreement Administrator may release the remaining twenty percent (20%) of assessments received for that fiscal year to GVDA to fund Activities if the Agreement Administrator determines that the reports of expenditures of eighty percent (80%) of funding under Sections 6.1.3 and 6.1.4 is acceptable. If for any reason the Administrator determines not to release some or all of the remaining twenty percent (20%), the Agreement Administrator shall explain in writing to the GVDA the reason or reasons for withholding funds and give the GVDA reasonable opportunity to remedy any cause for such withholding.
- 6.1.6. **Excess Funds.** At the end of each fiscal year, any unexpended or uncommitted funds approved by the City Council shall be applied to the next fiscal year’s request

approved by the City Council. If for any reason the City retains a surplus of funds from year to year, it shall report the amount thereof to the GVDA.

6.1.7. **Appointment of GVDA.** City hereby appoints GVDA, non-exclusively, as a collections agency pursuant to section 12.40.060 of the PBID Ordinance; provided, however, that all payments must be to the City and not to GVDA to ensure the proper accounting of payments and delinquencies; and provided further, GVDA may, but is not obligated to, pursue any delinquent account.

6.2. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to GVDA except as otherwise required by law. GVDA shall be solely responsible for calculating, withholding, and paying any taxes.

6.3. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputes arising from or related to this Agreement.

6.4. **Additional Work.** GVDA shall not be reimbursed for any expenses incurred for work performed beyond the activities approved by the City Council unless prior approval is given by the City. GVDA shall not undertake any such work without prior written approval of the City's Agreement Administrator.

6.5. **Right to Withhold Payments.** If GVDA fails to promptly satisfy an indemnity obligation described in Section 9, City shall have the right to withhold payments under this Agreement to offset that amount.

7. PREVAILING WAGES

GVDA is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects including the design and preconstruction phases of a covered public works project. GVDA shall defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless ~~from~~from any ~~claim or~~ liability arising out of any failure or alleged failure of GVDA to comply with the Prevailing Wage Laws.

8. RELATIONSHIP OF PARTIES

8.1. **General.** GVDA is, and shall be a wholly independent contractor as to the City under this Agreement.

8.2. **No Agent Authority.** GVDA shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of GVDA or any of GVDA's employees, except as set forth in this Agreement. GVDA shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.

8.3. **Independent Contractor Status.** Under no circumstances shall GVDA or its employees look to the City as an employer. GVDA shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on any previously

earned California Public Employees Retirement System (“CalPERS”) retirement benefits, if any, and GVDA specifically assumes the responsibility for making such a determination. GVDA shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation, and other applicable federal and state taxes.

- 8.4. **Indemnification of CalPERS Determination.** In the event that GVDA or any employee, agent, or subcontractor of GVDA providing services under this Agreement is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, GVDA shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of GVDA or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 8.5. **Record of Fees.** The City Finance Director shall maintain a record of all fees payable pursuant to the PBID ordinance, and of all payments made pursuant to such assessments. A record of the total fees paid and charges on a person liable for the assessment, or the fact that said person has allowed the fees and charges to become delinquent, is not deemed to be confidential. City shall provide the GVDA with a record of delinquent assessments pursuant to Section 6.1 of this Agreement above.

9. INDEMNIFICATION

9.1 Definitions.

9.1.1 For purposes of this Section, “GVDA” shall mean GVDA, acting through its officers, any employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either GVDA or its subcontractors, in the performance of this Agreement; provided, however, that this Section 9 imposes no indemnification obligation on any individual acting within the course and scope of his or her work for GVDA.

9.1.2 “City” shall include City, its officials, officers, agents, employees and volunteers.

- 9.2 **Consultant to Indemnify City.** Where the services to be provided by GVDA under this Agreement are design professional services, as that term is defined under Civil Code Section 2782.8, GVDA agrees to indemnify, defend and hold harmless, the City, its officers, officials, employees and volunteers from any and all claims, demands, costs or liability that actually or allegedly arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of GVDA and its subcontractors and other agents in the performance of services under this Agreement, but this indemnity does not apply to liability for damages for bodily injury, property damage or other loss, arising from the negligence, active negligence or willful misconduct by the City, its officers, official employees, and volunteers. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of the City, then GVDA’s indemnification and defense obligations shall be reduced in proportion to the established comparative liability of the City and shall not exceed the GVDA’s proportionate percentage of fault.

- 9.3 As respects all acts or omissions which do not arise directly out of the performance of design professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, and to the full extent permitted by law, GVDA agrees to indemnify, defend and hold harmless the City, its officers, officials, agents, employees, and volunteers from and against any claims, demands, losses, liability of any kind or nature (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of the negligence or willful misconduct in performance of this Agreement by GVDA or by any individual or entity for which GVDA is legally liable, including but not limited to officers, agents, employees or subcontractors of GVDA, except to the extent those liabilities arise out of the negligence, or willful misconduct of the City, its officers, officials, employees and volunteers.
- 9.4 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. GVDA shall not be required to indemnify City for such loss or damage as is caused by the negligence or willful misconduct of the City. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of an indemnified party, then GVDA's indemnification obligation shall be reduced in proportion to its established comparative liability.
- 9.5 **Waiver of Statutory Immunity.** The obligations of GVDA under this Section are not limited by the provisions of any workers' compensation act or similar act. GVDA expressly waives its statutory immunity under such statutes or laws as to City.
- 9.6 **Indemnification by Subcontractors.** GVDA agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subcontractor or any other person or entity involved in the performance of this Agreement on GVDA's behalf.
- 9.7 **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. GVDA's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

10. INSURANCE

- 10.1. **Insurance Required.** GVDA shall maintain insurance as described in this Section and shall require any subcontractors, consultants, and other agents to do the same.
- 10.2. **Documentation of Insurance.** The City will not execute any permits or licenses associated with this agreement until it has received a complete set of all required documentation of insurance coverage required for the permits or licenses. However, failure to obtain the required documents prior to the beginning of work associated with this agreement shall not waive the GVDA's obligation to provide them. GVDA shall file with City:
- Certificate of Insurance, indicating companies acceptable to the City, with a Best's Rating of no less than A:VII. The Certificate of Insurance must include express reference

to this Agreement and, where applicable, each project or event for which coverage is provided.

- Documentation of Best's rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

10.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$1,000,000
 - Fire Damage (any one fire) \$ 50,000
 - Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation (if GVDA has any employees during the term of this Agreement):
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000
 - EL Disease - Policy Limit \$1,000,000
 - EL Disease - Each Employee \$1,000,000
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000 (see section 10.6 below for scope)

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the City as additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured.

10.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

10.5. **Worker's Compensation Insurance.** GVDA is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and GVDA will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.

10.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.

- 10.7. **Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the GVDA must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
- 10.8. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of the City of Grass Valley must be endorsed as an additional insured for each policy required herein, for liability arising out of ongoing and completed operations by or on behalf of the GVDA. GVDA’s insurance policies shall be primary as respects any claims related to or as the result of the GVDA’s work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the GVDA’s insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 10.9. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the GVDA does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the GVDA under this Agreement. Failure of the GVDA to maintain the insurance required by this Agreement, or to comply with any of the requirements of this Section, shall constitute a material breach of this Agreement.
- 10.10. **Notices.** GVDA shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. GVDA shall provide no less than 30 days’ notice of any cancellation or material change to policies required by this Agreement. GVDA shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of Grass Valley, Attn: City Manager, 125 E. Main Street, Grass Valley, CA 95945.
- 10.11. **GVDA’s Insurance Primary.** The insurance provided by GVDA, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of GVDA’s insurance and shall not contribute with it.
- 10.12. **Waiver of Subrogation.** GVDA hereby waives all rights of subrogation against the City. GVDA shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 10.13. **Report of Claims to City.** GVDA shall report to the City, in addition to the GVDA’s insurer, any and all insurance claims submitted to GVDA’s insurer in connection with the activities under this Agreement.

10.14. **Premium Payments and Deductibles.** GVDA must disclose all deductibles and self-insured retention amounts to the City. The City may require the GVDA to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement. City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. GVDA shall be responsible for all premiums and deductibles in all of GVDA's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

10.15. **Duty to Defend and Indemnify.** GVDA's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

11. MUTUAL COOPERATION

GVDA Cooperation in Defense of Claims. If any claim or action is brought against City relating to GVDA's performance in connection with this Agreement, GVDA shall render any reasonable assistance that City may require in the defense of that claim or action.

12. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during GVDA's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

City Manager
City of Grass Valley
125 E. Main Street
Grass Valley, CA 95945
Telephone: (530) 274-4312

If to GVDA

Executive Director
Grass Valley Downtown Association
% Greater Grass Valley Chamber of
Commerce
128 East Main Street
Grass Valley, CA 95945
Telephone: (530) 273-4667

With courtesy copy to:

Michael G. Colantuono, Esq.
Grass Valley City Attorney
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945
Telephone: (530) 432-7357

13. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.10 (Records), paragraph 8.4 (Indemnification of CalPERS Determination), Section 9 (Indemnification), paragraph 10.7 (Claims-Made Policies), paragraph 11.1 (GVDA Cooperation in Defense of Claims), and paragraph 16.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

14. TERMINATION

- 14.1. **City Termination.** City may terminate this Agreement for any reason on 180 calendar days' written notice to GVDA. GVDA agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All remaining funds, documents, objects, materials or other tangible things shall be returned to City upon the termination of this Agreement.
- 14.2. **GVDA Termination.** GVDA may terminate this Agreement for any reason upon 180 calendar days' written notice.
- 14.3. **Compensation Following Termination.** Upon termination, GVDA shall receive collected Assessments based on the work satisfactorily performed prior to termination. In no event shall GVDA be entitled to receive more than the amount that would be paid to GVDA for the full performance of the activities required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.
- 14.4. **Remedies.** City and GVDA retain any and all available legal and equitable remedies for breach of this Agreement by the other.

15. INTERPRETATION OF AGREEMENT

- 15.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 15.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and GVDA with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and GVDA.
- 15.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.

- 15.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 15.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 15.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

16. GENERAL PROVISIONS

- 16.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by GVDA for performance of this Agreement are deemed confidential and GVDA shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 16.2. **Conflicts of Interest.** GVDA maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee or attorney working solely for GVDA or the Greater Grass Valley Chamber of Commerce, to solicit or secure this Agreement. Further, GVDA warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee or attorney working solely for Consultant or the Greater Grass Valley Chamber of Commerce, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. GVDA further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the activities. For breach or violation of this warranty, City shall have the right to terminate this Agreement without liability, as provided above. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 16.3. **Non-assignment.** GVDA shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than GVDA. City is aware of and consents to the Management Agreement dated as of February 1, 2022 and the Alliance Agreement dated as of January 1, 2024 by and between the GVDA and the Greater Grass Valley Chamber of Commerce which are attached hereto as Exhibits B and C respectively.

- 16.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 16.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 16.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 16.7. **Non-Discrimination.** GVDA shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. GVDA agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 16.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or GVDA unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or GVDA of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 16.9. **Excused Failure to Perform.** GVDA shall not be liable for any failure to perform if GVDA presents acceptable evidence, in City's reasonable judgment, that such failure was due to causes beyond the control and without the fault or negligence of GVDA.
- 16.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 16.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, each party shall pay its own costs, including any accountants' and attorneys' fees expended in the action.
- 16.12. **Venue.** The venue for any litigation shall be Nevada County, California and GVDA hereby consents to jurisdiction in Nevada County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

[Signature Page Follows]

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Grass Valley

“GVDA”
Grass Valley Downtown Association

By: _____
Signature

By: _____
Signature

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

By: _____
Taylor Whittingslow, City Clerk

Date: _____

Approved as to form:

By: _____
David J. Ruderman, Assistant City Attorney

Date: _____

EXHIBIT A
SAMPLE REPORTS (ANNUAL AND QUARTERLY)

Grass Valley Downtown Association
 BID Quarterly Expenditures Summary
 January - March, 2025

Use of Revenues-Improvements-Activities	GVDA	Car Show	Cornish Christmas	Event Supplies & Materials	Foothills Celebration	Music on Mill Day	Valentines Heart of the Town	Total GVDA	TOTAL
A. The acquisition, construction or maintenance of parking facilities	\$0.00								
B. To Fund or participate in studies of traffic flow and pay for improvements	\$0.00								
C. Decoratation, restoration, and general improvement of public place in the area	\$0.00								
D. Promotion of public events to take place on or in public places in the area									
5106 Special Event Supplies and Materials				\$161.80	\$4,438.67	\$127.69	\$142.91	\$5,021.57	\$5,021.57
5107 Special Event Support (1099 Contract Labor)					\$325.00			\$325.00	\$325.00
5109 Special Event Rentals					\$27.25			\$27.25	\$27.25
5113 Special Event Advertising and Promotion						\$100.00		\$100.00	\$100.00
5114 Special Event Entertainment Fee								\$0.00	\$0.00
E. Furnishing of music in any public place in the area								\$0.00	\$0.00
F. General promotion of business activities in the area						\$1,100.00		\$1,100.00	\$1,100.00
Total BID Expenditures				\$161.80	\$4,790.92	\$1,100.00	\$142.91		\$6,573.82

Wednesday, May 28, 2025 02:09:24 PM GMT-7 - Cash Basis

Grass Valley Downtown Association
 BID Quarterly Expenditures Detail
 January - March, 2025

Special Events Expenses Special Event Supplies & Materials GVDA	Date	Name	Memo/Description	Account	Amount	Balance
Cornish Christmas	01/13/2025	Weiss Brothers Nursery	Cornish Christmas Sponsor Wreaths	5106 Special Events Expenses	16.60	16.60
	01/20/2025	BrewBlitt Brewing	Jesters Privilege- 2 cases @ \$71.40	5106 Special Events Expenses	142.80	159.40
	01/20/2025	BrewBlitt Brewing	CRV 2 Cases @ \$1.20	5106 Special Events Expenses	2.40	161.80
				\$	161.80	
Total for Cornish Christmas Event Supplies & Materials	01/09/2025	Amazon		5106 Special Events Expenses	45.68	45.68
				\$	45.68	
Total for Event Supplies & Materials Foothills Celebration	02/19/2025	Grandstand		5106 Special Events Expenses	1,802.47	1,802.47
	02/21/2025	ZAZZLE INC		5106 Special Events Expenses	547.70	2,350.17
	02/28/2025	4IMP/PRINT, INC		5106 Special Events Expenses	328.91	2,679.08
	03/01/2025	ULINE		5106 Special Events Expenses	188.39	2,868.47
	03/03/2025	Grandstand		5106 Special Events Expenses	-20.90	2,847.57
	03/07/2025	Everything Branded Las Vegas		5106 Special Events Expenses	104.82	2,952.39

Total for Foothills Celebration St. Piran's Day	03/15/2025	Enrique's Lounge	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	91.00	3,043.39
	03/15/2025	Emily's Catering & Cakes	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	232.00	3,275.39
	03/15/2025	Gary's Place	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	98.00	3,373.39
	03/15/2025	Maria's Mexican	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	121.00	3,494.39
	03/15/2025	Tolanelli's	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	344.00	3,838.39
	03/15/2025	Lazy Dog	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	154.00	3,992.39
	03/15/2025	Marshall's Pasties Co.	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	25.00	4,017.39
	03/15/2025	MeZe	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	37.00	4,054.39
	03/15/2025	The Owl Tavern	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	166.00	4,220.39
	03/15/2025	Jessie Henshaw	Food Tasting Ticket Reimbursement	5106 Special Events Expenses	251.00	4,471.39
Total for St. Piran's Day Valentines Heart of the Town	03/19/2025	All Season Awards, Inc	Walters Race Trophy Name Plate	5106 Special Events Expenses	16.33	4,487.72
	03/21/2025	All Season Awards, Inc	openers Waiters Race	5106 Special Events Expenses	55.77	4,543.49
					\$	4,543.49
	02/28/2025	All Season Awards, Inc.	6 St. Pirans Award Medals 2" @ \$8.50	5106 Special Events Expenses	60.19	60.19
	02/28/2025	All Season Awards, Inc	5 St. Pirans Award Medals 2.5" @ \$10.50	5106 Special Events Expenses	52.50	112.69
	03/21/2025	All Season Awards, Inc	St. Pirans Pasty Toss Trophy Name Plate 2.5" @ \$10.50	5106 Special Events Expenses	15.00	127.69
					\$	127.69
	02/18/2025	Jan Swearingen	Valentines' Basket Giveaway Baskets	5106 Special Events Expenses	142.91	142.91
					\$	142.91
					\$	5,021.57
Total for Valentines Heart of the Town Total for GVDA Total for Special Event Supplies & Materials Special Event Logistical Support GVDA Foothills Celebration					\$	5,021.57
	03/15/2025	Spencer McClay	03-15-2025 Foothills Celebration Event Logistics	5107 Special Events Expenses	75.00	75.00
	03/15/2025	Steve Sanchez	03-15-2025 Foothills Celebration Event Logistics	5107 Special Events Expenses	250.00	325.00
					\$	325.00
					\$	325.00
					\$	325.00
	03/14/2025	SRC Party Rental Center	8 QT Chaling Dish for Marshall's Pasties/FC food purveyor	5109 Special Events Expenses	27.25	27.25
					\$	27.25
					\$	27.25
					\$	27.25
Total for Foothills Celebration Total for GVDA Total for Special Event Rentals Special Event Advertising and Promotion GVDA St. Piran's Day	02/28/2025	KNCO Radio	02/01/2025 to 02/28-2025 Inv 25020084	5113 Special Events Expenses-Special Event Advertising and Promotion	100.00	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00
					\$	100.00

Total for Special Event Advertising and Promotion
Special Events Entertainment Fee
GVDA
Music on Mill

02/04/2025	Gary Bowman	January 27th	Music on Mill	5114 Special Events Expenses	100.00	100.00
02/04/2025	George Croft	January 13th	Music on Mill	5114 Special Events Expenses	100.00	200.00
02/04/2025	Dave Earl Wellhausen	January 6th	Music on Mill	5114 Special Events Expenses	100.00	300.00
02/04/2025	Terry Boyles	January 20th	Music on Mill	5114 Special Events Expenses	100.00	400.00
02/28/2025	Dave Earl Wellhausen	February 11, 2025		5114 Special Events Expenses	100.00	500.00
02/28/2025	Terry Boyles	February 17, 2025		5114 Special Events Expenses	100.00	600.00
02/28/2025	Gary Bowman	February 24, 2025		5114 Special Events Expenses	100.00	700.00
02/28/2025	Ray Lallin	February 25, 2025		5114 Special Events Expenses	100.00	800.00
03/27/2025	Mary Curtin	March 24,	Music on Mill	5114 Special Events Expenses	100.00	900.00
03/27/2025	Linda Andreas	March 31,	Music on Mill	5114 Special Events Expenses	100.00	1,000.00
03/27/2025	Dave Earl Wellhausen	March 25,		5114 Special Events Expenses	100.00	1,100.00
Total for Music on Mill					\$	1,100.00
Total for GVDA					\$	1,100.00
Total for Special Event Entertainment Fee					\$	1,100.00
Total for Special Event Travel Mileage						
Total for Special Events Expenses					\$	6,573.82
TOTAL						

EXHIBIT B
MANAGEMENT AGREEMENT DATED AS OF FEBRUARY 1, 2022 BY AND
BETWEEN THE GVDA AND THE GREATER GRASS VALLEY CHAMBER OF
COMMERCE

MANAGEMENT AGREEMENT:

Greater Grass Valley Chamber of Commerce and Grass Valley Downtown Association

This Management Agreement ("Agreement") is entered into as of February 1, 2022 by and between the Greater Grass Valley Chamber of Commerce, Inc. ("Chamber") and the Grass Valley Downtown Association, Inc. ("GVDA") under the following circumstances:

- A. Pursuant to its designation by the City of Grass Valley ("City"), GVDA is the recipient of funds (the "BID Funds") which the City collects from businesses in downtown Grass Valley within the Business Improvement District ("BID");
- B. City has indicated its preference that management of the operations of the GVDA and the various events conducted with BID funds be transferred from GVDA to the Chamber; and
- C. Chamber is willing to undertake management of GVDA in strict accordance with the following terms and conditions.

Accordingly, the parties agree as follows:

- 1. Effective Date: This Agreement will become effective as of February 1, 2022 (the "Effective Date") when executed by parties following the approval of their respective Boards of Directors, and upon an indication of approval by the City.
- 2. Term: The term of this Agreement is 18 months, through July 2023, subject to termination by Chamber if any of the following occur:
 - 2.1 City requests that the Agreement terminate;
 - 2.2 GVDA violates any of the terms or conditions of this Agreement;
 - 2.3 GVDA fails to reasonably cooperate with Chamber in the performance of Chamber's obligations hereunder; or
 - 2.4 Any other cause, as determined in the discretion of the Chamber, justifying its decision to terminate the Agreement.
- 3. Undertaking by the Chamber: Chamber will do the following:
 - 3.1 The Chamber CEO will act as Executive Manager of GVDA (the "Executive Manager") and as such oversee the operations of GVDA, including those required by the BID Agreement.
 - 3.2 The Executive Manager will evaluate the administrative programs, procedures, finances and methodology of GVDA and improve same as needed to maximize GVDA efficiency.
 - 3.3 The Executive Manager will create job descriptions and cause the GVDA to hire personnel for at least the following:
outreach liaison to BID members (including social media postings and website updates), event coordination, financial/bookkeeping (including monthly QuickBooks reconciliation, P&L and Balance Sheet preparation, semi-

7. Arbitration of Disputes. Any disputes arising from or relating to this Agreement shall be submitted to binding arbitration by an arbitrator selected by the parties, or if they are unable to agree on an arbitrator, by the court at the request of any party. Costs of arbitration shall be shared equally by the parties. Each side shall bear its own attorney fees. The Arbitration shall be conducted in Grass Valley, California at the Chamber offices, or such other location selected by the Chamber.
8. Miscellaneous.
- 8.1 This Agreement shall be governed by California law.
- 8.2 This Agreement is voluntarily entered into. The parties each have the opportunity to consult with and or be represented by legal counsel prior to entering into this Agreement.

AGREED:

Greater Grass Valley Chamber of Commerce, Inc.

By:  3/8/22
Jon Katis, Chairperson

Grass Valley Downtown Association, Inc.

By:  3/8/22
Lillie Piland, Chairperson

EXHIBIT C
THE ALLIANCE AGREEMENT DATED AS OF JANUARY 1, 2024 BY AND
BETWEEN THE GVDA AND THE GREATER GRASS VALLEY CHAMBER OF
COMMERCE

CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

Cities are subject to the campaign disclosure provisions detailed in Government Code Section 84308.

Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to the City with your application.

1. No City councilmember or commissioner shall accept, solicit, or direct a contribution of more than \$500 from any party,¹ financially interested participant,² or agent³ while a proceeding is pending or for 12 months subsequent to the date a final decision is rendered by the City. This prohibition commences when your application has been filed, or the proceeding is otherwise initiated.

2. A party to a City proceeding shall disclose on the record of the proceeding any contribution of more than \$500 made to any councilmember or commissioner by the party, or agent, during the preceding 12 months. No party to or participant in a City proceeding shall make a contribution of more than \$500 to a councilmember or commissioner during the proceeding and for 12 months following the date a final decision is rendered by the City. No agent to a party or participant shall make a contribution in any amount to a councilmember or commissioner during the proceeding and for 12 months following the date a final decision is rendered by the City.

3. Before rendering a decision on a City proceeding, any councilmember or commissioner who received contribution of more than \$500 within the preceding 12 months from any party to a proceeding, or agent, shall disclose that fact on the record of the proceeding, and shall be disqualified from participating in the proceeding. However, if any councilmember or commissioner receives a contribution that otherwise would require disqualification, and returns the contribution within 30 days of (a) making the decision, or (b) knowing about the contribution and the relevant proceeding, whichever comes last, that councilmember or commissioner may participate in the proceeding.

¹ "Party" is defined as any person who files an application for, or is the subject of, a proceeding.² "Participant" is defined as any person who actively supports or opposes a particular decision in a proceeding, as by submitted written or oral comments at a commission or council meeting.

³ "Agent" is defined as a person who represents a party in connection with a proceeding for compensation who appears before or otherwise communicates with the City for the purpose of influencing the proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closely held corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

To determine whether a campaign contribution of more than \$500 has been made by you or your agent to a councilmember or commissioner within the preceding 12 months, all contributions made by you or your agent during that period must be aggregated.

Names of current City councilmembers and commissioners are available on the City's website. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact the City Clerk.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Document:

- ☐ License
- ☐ Lease
- ☐ Permit
- ☐ Franchise
- ☐ Other Contract
- ☐ Other Entitlement

Name and address of any party, participant, or agent who has contributed more than \$500 to any councilmember or commissioner within the preceding 12 months:

1. _____
2. _____
3. _____

(b) Date and amount of contribution:

Date _____ Amount \$ _____

Date _____ Amount \$ _____

Date _____ Amount \$ _____

(c) Name of councilmember or commissioner to whom contribution was made:

1. _____
2. _____
3. _____

(d) I certify that the above information is provided to the best of my knowledge.

Printed Name _____ Signature _____

Date _____ Phone _____

To be completed by City:

Document No: _____

AGREEMENT: GREATER GRASS VALLEY BUSINESS ALLIANCE

This Agreement (“Agreement”) is entered into effective January 1, 2024 (“Effective Date”) by and between the Greater Grass Valley Chamber of Commerce (“Chamber”), the Grass Valley Downtown Association (“GVDA”) and the Greater Grass Valley Business Alliance (“Alliance”), each a “Party” to this Agreement, under the following circumstances:

- A. The Chamber is a California non-profit corporation operating pursuant to Internal Revenue Code (“IRC”) §501(c)(6) for the benefit of the greater Grass Valley business community;
- B. The GVDA is a California non-profit corporation operating pursuant to IRC §501(c)(4) for the benefit of the businesses within the Business Improvement District encompassing the Grass Valley downtown;
- C. The Alliance is a California non-profit corporation to be formed following execution of this Agreement. It will then apply for IRC §501(c)(6) status.
- D. Since January 2022, the Parties have been operating under a Management Agreement, by which the administration of the GVDA operations and events has been provided by the Executive Director of the Chamber (the “Management Agreement”);
- E. The Chamber and the GVDA have entered into a non-binding Letter of Intent dated as of November 16, 2023, providing for, among other things, the formation and operation of the Alliance;
- F. The Parties wish to formalize their contractual arrangements as provided below.

Now therefore the Parties hereto enter into this Agreement as follows:

1. **Purpose.** The purpose of the Alliance is to combine the resources and talents of the Parties in a manner that will promote the interests of both while achieving efficiencies of management and economies of combined operational overhead, and at the same time preserving the individual identities of each Party—all for the betterment of the City of Grass Valley, the members of each Party, and the greater area business community.

2. **Term.** This Agreement will have a term of 3 years, and will automatically renew for additional terms of 3 years, unless one of the Parties gives

- operating expenses until operations of the Parties generate sufficient cash flow to fund operations; provided, in the event it is determined at any time by the Chamber Finance Committee that additional funds are needed in the Combined Account, each Party will contribute 50% of needed amounts;
- (iv) all net income in this account will be held as a reserve against future needs of either Party or the Alliance; provided, at the end of each calendar year, 10% of the 'net profits' generated through this account will be distributed to each of the Chamber and GVDA as strategic reserves. At such time as the Alliance receives IRC § 501(c)(6) status, it will also receive 10% of the annual 'net profits' generated through this account to be held as a reserve.
 - (v) Any dispute or controversy concerning income or expense of the Combined Account will be resolved by the Alliance Board.
 - (vi) On termination of this Agreement and the relationships provided for herein, the funds remaining in the Combined Account, after payment of expenses, will be distributed equally to the Chamber and GVDA.
- D. The Chamber and GVDA each maintain separate 'reserve accounts' and other accounts shown on Exhibit A, the proceeds of which remain the sole property of each Party.
- E. The ED will control expenditures from all accounts held by both Parties, including the BID account, the Destination Magazine account and the Combined Account; provided for any withdrawal over \$500, in addition to the ED's, a signature of one additional designated signator shall be required.
- F. The Arletta Douglas account also remains separate and the GVDA controls the use of those funds as intended.

5. **Organization of the Alliance.** The Alliance will be organized and operated as follows:

- A. Following the execution of this Agreement, the Parties will cooperate to form the Alliance as a California non-profit corporation and to obtain IRC § 501(c)(6) status. In the event that such status cannot be obtained, the Parties agree to negotiate in good faith to establish a working relationship that is as close as possible to the structure provided for in this Agreement.

arbitration shall be conducted in Nevada County, California, or if the arbitrator selected is unable to conduct the proceedings in such county, then in the California county closest to Nevada County in which the arbitrator is able conduct the proceeding. Any arbitration award shall be enforceable in Nevada County Superior Court and shall not be appealable.

C. **Entire Agreement.** This Agreement, with exhibits, constitutes the entire understanding and agreement between the Parties with respect to the transactions contemplated and supersedes any and all prior or contemporaneous oral or written representations, understandings, agreements or communications between the Parties concerning the subject matter hereof. No Party is relying upon any representation, assurance, or inducement not expressly set forth herein.

D. **Waiver.** No waiver of any provision of this Agreement or any rights or obligations of any Party hereunder shall be effective, except pursuant to a written instrument signed by the Party waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing. No waiver by any Party of a breach by another Party shall be deemed a waiver of any other or subsequent breach by such Party.

E. **Amendments and Severability.** This Agreement may be modified from time to time by a written instrument signed by the Parties (an "Amendment"). The terms of any Amendment will be subject to all the other terms of this Agreement unless otherwise stipulated in the Amendment. In the event that any provision of this Agreement should be found by a court or tribunal of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained will not, in any way, be affected or impaired thereby.

F. **Independent Contractors.** The Parties to this Agreement are independent contractors. No Party is an agent, representative, or partner of the other Party. No Party shall have any right, power, or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party, except to the extent that the ED is managing such Party and is therefore empowered to act for more than one Party. Each Party shall bear its own costs and expenses in performing this Agreement, except to the extent provided for herein (i.e., insofar as the provisions concerning the Combined Account provide for joint cost and expense sharing).