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To: Mayor Kudron and the Grand Lake Board of Trustees  
From: John Crone, Town Manager  
Re: Chamber Marketing Agreement  
Date: December 9, 2022

### **Background**

The Town has entered into an annual marketing and visitor center agreement with the Chamber for many years. The Town has recognized the crucial role that the Chamber has provided in building and maintaining our reputation as a premier destination for both Coloradoans and for visitors from other states and countries. The contracts remains the materially similar to the 2022 contracts.

### **Staff Recommendation**

Staff believes that the Town has built a very good relationship with the Chamber. The Chamber sends their Executive Director to report at Town Staff meetings and the Town Manager has been attending Chamber Board meetings. There is very good communication and a very large degree of openness between the organizations.

Staff recommends that the Board of Trustees approve the attached Agreement by passing the following motion:

### **Motion**

I move to instruct the Mayor to execute the attached Agreement for Marketing Services and Visitor Center Services with the Grand Lake Area Chamber of Commerce.

## 2023 CHAMBER AGREEMENTS

### PART ONE/AGREEMENT FOR MARKETING SERVICES

THIS AGREEMENT, dated this 12<sup>th</sup> day of December, 2022 is by and between the Town of Grand Lake, Colorado, a Colorado municipal corporation (Town) and the Grand Lake Area Chamber of Commerce, Inc., a Colorado nonprofit corporation (Chamber) for marketing services to promote tourism and in connection with the operation of the Grand Lake Visitors' Center.

#### WITNESSETH:

That in and for consideration of the services to be rendered and the compensation to be received, the Town and the Chamber covenant and agree as follows:

- 1) Benefits to the Community. The economy of the inhabitants and businesses of the Town relies substantially upon income from tourism and the promotion of tourism accrues to the general welfare of the community as a whole.
- 2) Chamber Authority. The Chamber was incorporated in 1946 for the purpose of promoting business and is a tax exempt organization under Section 501(c) (6) of the Internal Revenue Code of 1986 in addition to holding trademarks or trade names such as "Snowmobile Capital of Colorado" and "the Soul of the Rockies".
- 3) Town Authority.
  - a) The Town is authorized by statute to advertise and promote tourism.
  - b) The Town is authorized to enter into contracts for the provision of municipal services pursuant to statute and the Colorado Constitution.
  - c) The Town has the authority to collect Business License Fees and Peddlers, Solicitors and Transient Merchant Fees and may spend a portion of that revenue for community marketing purposes.
  - d) The Town has the authority to collect Nightly Rental License Fees and may spend a portion of that revenue for community marketing purposes.
- 4) Town and Chamber Relationship.
  - a) In the past, the Town has, from time to time, provided limited funding of certain activities of the Chamber, e.g. marketing of the Town and operation of the Visitors' Center.

b) The Town has chosen to continue to assess Business License Fees and Peddlers, Solicitors and Transient Merchant Fees and has determined that it is reasonable to allocate \$38,000 from such fees collected to fund certain marketing efforts of the Town and the Chamber as described below.

c) The parties deem these fees necessary and desirable so that the agreed upon functions are carried out with the support of the business community.

5) Term. This agreement shall commence on January 1, 2023 and shall remain in effect for a period of one year, expiring on December 31, 2023.

6) Obligations of the Town.

a) The Town agrees to appoint a representative to serve as liaison to the Board of Directors of the Chamber, as needed.

b) The Town agrees to remit to the Chamber on a quarterly basis 25% of the annual allocation designated to the Chamber by the Town for fiscal year 2023 related to License Fees, Peddlers, Solicitors and Transient Merchants Fees collected by the Town, and General Fund Revenues, as specified in the approved 2023 Town budget. This money will be remitted by the Town within one week of the beginning of each fiscal quarter.

c) The Town agrees to remit twenty-one thousand dollars (\$21,000) to the Chamber in four quarterly payments to offset the costs of providing public relations services and for hosting certain Town events.

c) The Town agrees to review this Agreement with the Chamber annually.

d) The Town agrees to provide timely review and comment on documents submitted by the Chamber as required by this Agreement.

7) Obligations of the Chamber.

a) The Chamber agrees to adhere to the provisions of Town Code, and to all subsequent modifications and amendments thereof.

b) The Chamber agrees to use all funding remitted by the Town to the Chamber to fund advertising, to promote existing events, to execute marketing of the Town, for administrative costs and to operate the Visitors' Center. Full financial transparency and reporting is expected.

- c) The Chamber agrees that any costs or expenses exceeding the funding allocated by the Town in these agreements that relate in any manner to the operation of the Visitors' Center or performance of these Agreements shall be borne solely by the Chamber.
- d) The Chamber agrees that any additional or future funding by the Town shall be subject to annual appropriation, to be made at the sole discretion of the Town.
- e) The Chamber agrees to prepare a proposed 2023 Marketing Plan and proposed marketing budget, subject to review by the Town Board, to be effective March 1, 2023.
- f) The Chamber agrees to carry out the 2023 Marketing Plan and diligently and faithfully perform in accordance with the terms thereof.
- g) The Chamber agrees to comply with all provisions of the Service Agreement between the Town and the Chamber for Visitors' Center Operations, as set forth in Part Two.
- h) The Chamber agrees to comply with all provisions of the Lease Agreement between the Town and the Chamber for the Visitors' Center.
- i) The Chamber agrees to operate and maintain a website with current information.
- j) The Chamber agrees to annually publish and distribute a Visitors' Guide/Vacation Planner digitally or in print.
- k) The Chamber agrees to review this Agreement with the Town annually.
- l) The Chamber agrees to submit and present semi-annual reports for review and comment by the Town Board of Trustees. At a minimum, said semi-annual reports shall include the following:
  - i) Access to financial report(s) to address how Town funding has been expended on marketing services over the previous quarter and year-to-date.
  - ii) Marketing report(s) to describe completed, ongoing, and upcoming marketing efforts.
  - iii) Statistics on various other marketing efforts, including but not limited to Facebook activity and website activity.

m) On or before March 1, 2023, the Chamber agrees to submit to the Town Board of Trustees the following information for its review:

- i) A list of the current Chamber officers.
- ii) A copy of the current corporate filing with the Secretary of State showing the non-profit and good standing status of the corporation.
- iii) A copy of the current insurance certificate.
- iv) The proposed 2022 Marketing Plan.
- v) The proposed 2022 Chamber budget, including the marketing budget.
- vi) The last completed final audit report or financial review.

n) Unless specifically indicated otherwise, in writing, all obligations of the Chamber shall be performed at the expense of and paid for by the Chamber.

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## **PART TWO/AGREEMENT FOR VISITORS' CENTER SERVICES**

THIS AGREEMENT, dated this 12<sup>th</sup> day of December 2023 is by and between the Town of Grand Lake, Colorado, a Colorado municipal corporation (Town) and the Grand Lake Area Chamber of Commerce, Inc., a Colorado nonprofit corporation (Chamber) to operate the Grand Lake Visitors' Center:

### 1) Town and Chamber Relationship.

- a) The Chamber has successfully operated the Visitors' Center for the past several years under a Service Agreement similar to this Agreement.
- b) The parties deem these fees necessary and desirable so that the agreed upon functions are carried out with support of the business community.

### 2) Visitors' Center Operations.

- a) It is essential to the success of the promotion of tourism that there is a fully functional Visitors' Center available to visitors.
- b) It is in the best interests of the Town and the Chamber to again contract to operate the Visitors' Center according to the terms and conditions below.

3) Term. This agreement shall commence on January 1, 2023 and shall remain in effect through December 31, 2023.

### 4) Obligations of the Town.

- a) The Town agrees to provide the Visitors' Center to the Chamber as outlined in the Lease Agreement dated December 10, 2018 as authorized by Ordinance 07-2018, to be operated as both a Visitors' Center and as Chamber offices.
- b) The Town agrees to plow the Visitors' Center parking lots as part of its routine snow removal. Major arterials will always be a priority over this parking lot. At the Town's discretion, some snow may need to be kept on site, and will likely be stored at the lower parking lot.
- c) The Town agrees to allow the Chamber to utilize the Town's dumpster located on the site of the Public Works Shop to dispose of trash generated at the Visitors' Center and Chamber Office. Furthermore, the Town agrees to empty the outside trash containers as part of its regular schedule, with the understanding that the overall upkeep of the site is a

Chamber responsibility and that from time to time, other Town responsibilities may take precedence over this function, leaving the duties of trash removal instead to Chamber staff and volunteers. If the Town determines that trash from the Chamber becomes an unfavorable situation, due to quantity, handling or otherwise, the Town may require the Chamber to provide trash disposal at the Chamber's expense.

d) The Town agrees to share in the costs of operating the Visitors' Center. For the budget year 2023, the Town agrees to pay \$35,232 from undesignated General Fund revenues towards this goal. This money will be remitted quarterly by the Town after receiving a quarterly report from the Chamber provided the Town finds the report to be satisfactory as to form, content, and results.

e) The Town will allocate \$30,000 in 2023 from its Nightly Rental License fees to be used by the Chamber for Visitors' Center services.

f) The Town agrees to allow the use of accumulated maintenance contingency funds towards improvements of the Visitors' Center. The Town and the Chamber will coordinate and agree on schedule, scope and budget of the work prior to starting any improvements.

#### 5) Obligations of the Chamber.

a) Unless otherwise agreed to by the Town, the Chamber agrees to operate and staff the Visitors' Center at least seven (7) days per week, and six (6) hours per day, during the Town's busy season, herein defined as the day that Trail Ridge Road officially opens, until the day that Trail Ridge Road officially closes. At a minimum, these busy season hours shall begin Memorial Day weekend and run through Labor Day weekend, regardless of when Trail Ridge Road officially opens and closes. The Chamber agrees to be responsive to visitor needs regardless of the status of Trail Ridge Road.

b) The Chamber agrees to operate and staff the Visitors' Center at least four (4) days per week, and four (4) hours per day, when Trail Ridge Road is closed for the season or as otherwise defined above, and also to staff the Visitors' Center during special events or when the Town is otherwise busy, such as during the Thanksgiving and Christmas holiday seasons. Specifically, the Visitors' Center shall be open the week of Thanksgiving, the week before Christmas, and the week before New Year's Eve Day. The Visitors' Center will not be required to be open on Christmas Day and New Year's Day.

c) The Chamber agrees to provide training for all staff and volunteers that work at the Visitors' Center, to ensure a knowledgeable and pleasant Visitors' Center workforce.

- d) The Chamber agrees to track Visitors' Center activity, including walk-ins, phone and e-mail inquiries.
- e) The Chamber agrees to always keep the Visitors' Center and surrounding site orderly and clean and in excellent condition as required by the Lease Agreement. Specifically, all trash and debris shall be policed, blemishes on/in the building shall be addressed promptly and appropriate preventative maintenance, minor repairs, carpet cleaning and other routine maintenance activities will be undertaken.
- f) The Chamber agrees to maintain all landscaping in a manner that always reflects a positive image of the Town, with weeds pulled or sprayed, plants and flowers watered, etc.
- g) The Chamber agrees to take on the duties of trash removal utilizing Chamber staff and volunteers when, from time to time, other Town responsibilities take precedence over this function and keep the Town from removing trash as described in 4(c) above.
- h) The Chamber agrees to provide trash disposal at the Chamber's expense when, at the discretion of the Town, the trash removal responsibilities described in 4(c) above become an unfavorable situation, due to quantity, handling or otherwise.
- i) The Chamber agrees to shovel any and all snow not removed by the Town when plowing as described in 4(b) above.
- j) The Chamber agrees to review this Agreement with the Town annually.
- k) The Chamber agrees to use the undesignated General Fund revenues remitted by the Town to the Chamber to fund Visitors' Center services. When remitted fees for Visitors' Center services remain unspent at year's end, the Chamber may reallocate those unspent funds towards marketing expenses.
- l) The Chamber agrees that any costs or expenses exceeding the funding described above that relate in any manner to the operation of the Visitors' Center or the Chamber's performance of its obligation under this Agreement shall be borne solely by the Chamber.
- m) The Chamber agrees that any additional or future funding by the Town shall be subject to annual appropriation, to be made at the sole discretion of the Town.
- n) The Chamber agrees to provide crisis communication services at Incident Command in special circumstances such as fire, severe weather events, accidents, etc. These services may include, but are not limited to: coordinating with the Town, emergency services agencies and organizations and other agencies and organizations regarding uniform



communication with the public; answering inquiries regarding the special circumstance; allowing the posting of maps, flyers and other relevant information in and near the Visitors' Center; posting of information, photos, etc. on the Chamber website and social media outlets; and, dissemination of any other relevant information in any number of ways to assist in getting important information out to those who need it.

o) The Chamber agrees to submit and present semi-annual reports for review and comment by the Town Board of Trustees. At a minimum, said semi-annual reports shall include the following:

- i) Financial report(s) to address how undesignated Nightly Rental License and General Fund monies have been expended on Visitors' Center services over the previous quarter and year-to-date.
- ii.) A report of statistics of Visitors' Center activity described in 5(f) above. Data by month for the current year and multiple prior years will be included for comparison of seasonal and annual trends.
- iii.) The effective date and the days/hours of operation for the busy season, as soon as the information is known, but no later than the effective date.
- iv) The effective date and the days/hours of operation for the Trail-Ridge-Road-is-closed season, as soon as the information is known, but no later than the effective date.

p) Unless specifically indicated otherwise, in writing, all obligations of the Chamber shall be performed at the expense of and paid by the Chamber.

6) Default by the Chamber/ Remedies.

a) If the Chamber defaults in the performance of any of its obligations under this Agreement, the Town may give written notice of such default to the Chamber. If the default is not cured within ten (10) days after such written notice is given, the Town may elect to terminate this Agreement by giving written notice of such termination to the Chamber. If such notice of termination is given, this Agreement shall terminate on the date fixed in such notice as completely as if that were the date herein definitely fixed for expiration of the term of this Agreement. The Chamber shall then surrender the Leased Property to the Town. When returned to the Town, the Leased Property shall be in the same or better condition as it existed at the time the Chamber took possession of it, except for ordinary wear and tear.

b) No remedy conferred upon or reserved to the Town shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

7) Default by the Town/Remedies

a) If the Town defaults in the performance of any of its obligations under this Agreement, the Chamber may give written notice of such default to the Town. If the default is not cured within ten (10) days after such written notice is given, the Chamber may elect to terminate this Agreement by giving written notice of such termination to the Town. If such notice of termination is given, this Agreement shall terminate on the date fixed in such notice as completely as if that were the date herein definitely fixed for expiration of the term of this Agreement. The Chamber shall then surrender the leased property to the Town. When returned to the Town, the Leased Property shall be in the same or better condition as it existed at the time the Chamber took possession of it, except for ordinary wear and tear.

b) The remedies available to the Chamber in the event of a default by the Town shall be limited to termination as described in subsection a) above, or an action for specific performance, but under no circumstances shall the Chamber's remedies include a claim against the Town for damages.

8) Future Appropriations. Nothing in these Agreements shall be construed as an obligation by the Town to provide an appropriation or approve a budget for services provided by the Chamber beyond the term hereof and in any event for no period greater than one year.

9) Compliance with Laws. In performing these Agreements, the Chamber shall comply with all applicable federal, state, county, municipal, local and other laws and regulations. In the event any law or regulation conflicts with the provisions of this Agreement, the stricter requirement shall control. The Chamber shall promptly notify the Town of any complaint, citation, order, or other notice of non-compliance or alleged non-compliance with any law regarding these Agreements or which might affect the Town in any manner.

10) Review Requirements. By accepting the funds and assistance from the Town as provided herein, and entering into these Agreements, the Chamber agrees to make arrangements to conduct an audit of all monies received and expended in the 2021 fiscal year, prepared by an independent certified public accountant, independent registered accountant, or independent partnership of certified public accountants or registered accountants licensed to practice in the State of Colorado, and acceptable to the Town. For clarification, by "independent" it is intended that this firm is retained by the Chamber for the sole purpose of conducting an audit, and that the Chamber shall have no other dealings with such auditor during the year.

11) Termination. Either party may terminate these Agreements with or without cause at any time upon thirty (30) days written notice to the other party. Upon termination, the Town shall have no further obligation to provide funding to the Chamber, beyond the amounts budgeted by the Town as of the date of termination. Any such termination shall not relieve the Chamber of its obligations to fully account for all funds received by the Chamber from the Town through the date of termination, nor the obligation of the Chamber to provide all reports and information required by this agreement through the date of termination. Such accounting, reports, and information shall be provided to the Town within thirty (30) days of termination.

12) Notice. Except as otherwise expressly provided herein, all notices required or permitted under Section 8 and Section 9 of these Agreements shall be in writing and shall be delivered in person or sent by United States Postal Service certified mail, return receipt requested. If sent by mail, a notice shall be deemed to have been properly given when deposited in any post office, branch post office, or mail depository regularly maintained by the United States Postal Service and sent by certified mail, return receipt requested, with postage thereon pre-paid, addressed as follows:

Town of Grand Lake  
Attn: Town Manager  
P.O. Box 99  
Grand Lake, CO 80447-0099

Grand Lake Area Chamber of Commerce, Inc.  
Attn: President  
P.O. Box 429  
Grand Lake, CO 80447-0429

13) Non-Waiver. Any indulgence granted by the Town to the Chamber as to the performance of any portion of these Agreements and any waiver by the Town given to the Chamber as to the performance or non-performance or the timing of any performance or non-performance of any part of these Agreements shall not be deemed or considered to be an indulgence or waiver of any other part of this Agreement or of any subsequent non-performance by the Chamber.

14) No Assignment. These Agreements may not be assigned by the Chamber without the written consent of the Town.

15) Agreement, Amendment. These written Agreements constitute a portion of the agreement between the parties. The entire agreement also includes Visitors' Lease Agreement (for the Visitors' Center property). All prior agreements except those mentioned above, negotiations or

discussions are hereby superseded and merged herein. These Agreements shall not be amended except in writing, signed by both of the parties.

16) Severability. In the event any provision of these Agreements shall be deemed to be invalid or unenforceable for any reason, such provision shall be severed from the remainder of these Agreements and shall not render the entire Agreement(s) void or unenforceable.

17) Applicable Law. In the event a dispute should arise as to the terms and provisions of these Agreements, these Agreements shall be interpreted and enforced pursuant to the law of the State of Colorado.

18) Binding Effect. These Agreements shall be binding on the parties hereto, their heirs, successors and assigns.

19) Consultation with Counsel. By affixing their signatures hereto, the parties hereby acknowledge that they understand their right to consult with an attorney before entering into this agreement and they further affirm that they have consulted with an attorney to the extent they wish to do so.

20) Limitation of Liability, Indemnification.

a) The Town shall undertake and be under no obligation other than those expressly provided for herein and shall make no financial commitment to the Chamber other than the expressly approved budget, as modified from time to time.

b) The Chamber shall make no undertaking or obligation which would purport to obligate the Town without the express prior approval of the Town.

c) At its sole cost, Chamber agrees to purchase and maintain in effect through the terms of these Agreements, insurance that will protect the Town and Chamber from claims which may arise out of, result from or be related to the Chamber's performance of the work outlined in these Agreements, whether such performance be by the Chamber or by someone directly or indirectly retained or employed by Chamber or by anyone for whose acts, errors, or omissions any of them may be liable. A copy of all policies or signed certificates of insurance shall be on file with the Town at all times, shall be appropriately endorsed to name the Town as additional insured, give the Town a minimum of thirty (30) days notice of cancellation or intention of non-renewal or restriction of coverage, and shall be statutory in conformance with the laws of the State of Colorado. Such insurances required herein shall be written for limits as follows:

Commercial General Liability

Bodily Injury and Property Damage  
\$1,000,000 each occurrence  
\$2,000,000 aggregate  
Personal Injury  
\$1,000,000 each occurrence  
\$2,000,000 aggregate

Workers' Compensation and Employers' Liability  
Workers' Compensation  
Statutory levels  
Employer's Liability  
\$1,000,000 each accident  
\$1,000,000 disease – each employee  
\$1,000,000 disease – policy limit

d) In the event the Colorado Governmental Immunity Act is amended, the Chamber shall be required to provide increased coverage so that the total amount of insurance is not less than the limit of liability under the Act as amended, plus \$100,000.

e) Furthermore, the Chamber shall indemnify and hold the Town harmless against any and all claims resulting or arising from or connected in any manner with the actions of the Chamber, its directors, employees, or other agents. Such indemnification shall include, but not be limited to, all costs, attorney fees and liabilities incurred in connection with such claim. If a claim or action is brought, the Chamber shall, on notice from the Town, resist or defend such action or proceeding by counsel, approved by the Town, which shall not be unreasonably withheld.

21) Governmental Immunity Act. By entering into this Agreement, the Town does not waive and does not intend to waive any of the rights and protections provided to the Town under the Colorado Governmental Immunity Act, Sections 21-10-101, et seq., Colorado Revised Statutes.

**IN WITNESS WHEREOF**, the Parties have hereunto subscribed their signatures, effective the date first above mentioned.

GRAND LAKE AREA CHAMBER OF COMMERCE, INC.

By: \_\_\_\_\_  
Jim McComb, President

ATTEST:

By: \_\_\_\_\_  
Mindy Nelson, Treasurer

TOWN OF GRAND LAKE

By: \_\_\_\_\_  
Stephan Kudron, Mayor

ATTEST:

By: \_\_\_\_\_  
Alayna Carrell, Town Clerk