

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF  
RAPID CITY AND THE RAPID CITY AREA CHAMBER OF COMMERCE**

This Agreement for Professional Services made this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF RAPID CITY**, on behalf of the City and the Rushmore Plaza Civic Center Board, hereinafter referred to as “City” and “Board”, respectively, and the **RAPID CITY AREA CHAMBER OF COMMERCE**, on behalf of the Rapid City Convention & Visitors Bureau, Rapid City, South Dakota, hereinafter referred to, respectively, as “Chamber” and “Bureau.”

**SECTION ONE  
APPOINTMENT OF BUREAU**

The City hereby appoints Bureau, and the Bureau hereby agrees to serve as the City’s promotion agency in connection with the promotion of the City of Rapid City as a visitor destination for tourism and conventions. The Bureau hereby agrees to the following conditions:

A. The Bureau agrees to implement a comprehensive marketing plan for the City of Rapid City, in conformity with the budget approved for FY2012.

1. The Bureau shall submit a marketing plan and budget prior to July 1, which shall include the Bureau’s goals and objectives for the subsequent calendar year, and for any extension of this Agreement. The Board shall review the marketing plan and budget and make recommendations to the City Council. The marketing plan shall be approved by the City before being implemented.
2. It shall be the responsibility of the Bureau to follow the marketing plan and budget as approved by the City Council. The Bureau shall make all records of receipts and disbursements available to the City of Rapid City and shall maintain such records for a period of six years.

B. All considerations set out in this Agreement, i.e. marketing plans, monies, etc., are to be used to promote the City of Rapid City as a visitor destination for tourism and conventions and to include the Rushmore Plaza Civic Center in those marketing materials.

**SECTION TWO  
PAYMENT**

A. The City hereby agrees to provide an amount equal to twenty-five percent (25%) of the one percent gross receipt tax collected under Section 3.16.040 of Rapid City ordinances, to the Chamber for the services of the Bureau in implementing the above mentioned promotion.

B. The City Finance Office will calculate and remit to the Bureau the payment monthly based upon the tax distribution payment by the South Dakota Department of Revenue.

### **SECTION THREE PROGRESS REPORTS**

A. Bureau hereby agrees to advise of the progress of the marketing and promotion program above mentioned not less frequently than quarterly. Bureau's report shall be distributed in writing to the Mayor and each Council member. A representative of the Bureau shall appear before the Common Council whenever so requested by a majority of the Common Council.

B. The Bureau will provide to the Board all new business booked and the expected number of delegate attendance. Also included will be an update of convention activities of the Bureau, i.e. leads, tentative bookings, follow-ups, etc., and with a general statement relating to measurable growth of convention activities in the City.

C. The Bureau will provide to the City via its progress report information concerning the promotion of the City with a general statement delineating the measurable growth of tourism and promotion of the City of Rapid City.

### **SECTION FOUR TERM OF AGREEMENT**

This Agreement shall be effective as of the 1st day of January, 2012, and terminate on the 31st day of December, 2014. Unless otherwise terminated, this Agreement, Chamber shall have an option to renew this agreement for an additional three-year term, which term would begin January 1, 2015, and end December 31, 2017.

### **SECTION FIVE TERMINATION OF AGREEMENT**

A. Termination by Notice. Either party may terminate this Agreement at any time by sending the other party, by certified mail, return receipt requested, a 90-day written notice of said termination.

B. Termination by Default. This Agreement shall terminate upon any default by either party that is not cured within thirty days after notice thereof. Default is defined as the failure to perform as required in this Agreement. Any misuse of funds by Chamber or Bureau shall be grounds for immediate termination without notice.

### **SECTION SIX STATE LAW**

This Agreement is being made pursuant to the authority granted to the City by SDCL § 9-12-11, and shall comply in all respects with said statute.

**SECTION SEVEN  
NO EMPLOYMENT RELATIONSHIP**

This Agreement does not create an employment or agency relationship between the City and Chamber, Bureau, or any of Chamber or Bureau's officers, directors, members, agents or employees.

**SECTION EIGHT  
MISCELLANEOUS**

A. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

B. Time of Essence. Time is of the essence of this Agreement.

C. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

D. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

E. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

F. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

G. Construction. This Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement

H. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

I. Governing Law and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the circuit court of Pennington County, State of South Dakota.

**RAPID CITY AREA CHAMBER OF COMMERCE**

**CITY OF RAPID CITY**

\_\_\_\_\_  
President

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)