

# AGREEMENT FOR VISIT GRAND JUNCTION MARKETING SERVICES

THIS AGREEMENT IS MADE this 15<sup>th</sup> day of November 20 17 ,  
between the City of Grand Junction ("City") acting through its Visit Grand Junction department  
("VGJ") and Mirror Pond LLC , hereinafter "Contractor." Contractor's  
Property: The Camp

## **Recitals.**

The City's People's Ordinance No. 34, imposed a Lodger's Tax for lodging and related purposes within the City. The City has used the proceeds to fund Visit Grand Junction (fka Grand Junction Visitor and Convention Bureau ("VCB")). Visit Grand Junction advertises the community, promotes tourism and visits, and attracts conferences, conventions and meetings to the City. Contractor desires to obtain the benefits of VGJ's efforts and programs.

**In consideration** of the mutual benefits, promises and efforts of the parties as set forth, the parties agree as follows:

### **Remittances**

1. Contractor agrees to remit to the City, on a monthly basis, three percent (3%) of its gross revenue received or obtained from every purchaser of lodging, as provided herein.

### **No add on**

2. The Contractor may collect and itemize the amounts due hereunder from any purchaser of lodging and Contractor may itemize the amounts due hereunder on any bill, invoice or other record given to or made available to any purchaser.

### **Use of funds**

3. The City agrees to use such funds to supplement the efforts of VGJ.

### **No right to control VGJ**

4. Contractor shall have no right to direct the efforts or decisions of Visit Grand Junction but will rely, without any right of review, on the judgment and decisions of VGJ. For the benefit of Contractor and lodging properties within the City, VGJ agrees to continue its efforts to provide the usual and customary services and marketing.
5. The terms "Finance Director", "lodging," "purchase or sale," and "purchasing lodging," shall have the meaning described in said People's Ordinance 34, as amended.

### **Definitions**

"Gross revenue" for the purpose of this agreement means the total amount received in money, credits, property or other consideration valued in money from sales and/or purchases of services by Contractor for providing the right to use or possess for consideration any room or rooms for temporary occupancy or other facilities, such as and not limited to, condominium rooms, cabins, lodges, hotels, motels, mobile homes, mobile home parks, "bed and breakfasts," or revenues received under any concessions permit, right of access, lease, contract license to use or other arrangement or otherwise.

"Gross sale" means the total amount received in money, credits, property or other consideration valued in money from sales and purchases of lodging, as defined in this agreement, but excluding the amounts received pursuant to any state, county or municipal tax, and further excluding those revenues as provided in Section 7(b) hereof.

### **Monthly reports**

6. Contractor shall remit three percent of the total Gross Revenue received in exchange for lodging, to the Finance Director of the City not later than 20 days after the last day of each month and each payment shall be accompanied by a report for the applicable period.

### **Exclusions**

- 7.(a) Contractor shall be allowed, as a deduction against sales received by Contractor providing lodging:
  - (1) Refunds of sales actually returned to any purchaser;
  - (2) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale for lodging and does not include any adjustments for other services furnished by a vendor.
  
- (b) Contractor shall be allowed as exclusions against gross revenues for lodging:
  - (1) Charges for other services, such as food and/or telephone charges, furnished by a person providing lodging;
  - (2) Deposits placed by any purchaser with a request to hold a room for such purchaser for a future date until such time as said deposit has been credited against the purchase or sale;
  - (3) All sales to the United States government, the State of Colorado, its departments and institutions, the political subdivisions of the State, and the City of Grand Junction in their governmental capacities only;
  - (4) All sales to those charitable, religious and eleemosynary organizations which have received from the federal Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue code as a tax-exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities.



### **Underpayments**

12. In the event that any such audit, inspection or examination determines that the amount of gross revenues remitted to the City for any prior period is less than the full amount owing to the City pursuant to this agreement, the Contractor agrees that it shall pay, in addition to all other amounts owing to the City, to the City within 30 days of request by the City, ten percent (10%) of all amounts due and owing.

### **Confidentiality**

13. Parties agree that, to the extent allowed by law, the City shall treat all such reports and information received from the Contractor pursuant to this agreement as confidential and not open to the inspection of the general public. However, any officer or employee of the City who may be charged with the duty of enforcement of this agreement shall be entitled to inspect any such records and any information supplemental thereto.

### **Right of access**

14. The City's Finance Director or any of his agents or designees, shall have the right at any reasonable time to enter upon the premises of the Contractor to request to see the register or rate schedule maintained by the Contractor for the purpose of enforcing the terms of this agreement.

### **Right to investigate, conduct hearings**

15. For the purpose of enabling the City to ascertain the correctness of the monthly reports or the amounts remitted to the City, Contractor agrees that the Finance Director of the City may make such investigations and hold such hearings concerning the matters covered by this agreement and may examine any relevant books, papers, records or memoranda and that any employee, agent, officer or contractor who contracts with the Contractor shall at the request of the Finance Director make any and all such persons available at City Hall in Grand Junction for the purpose of taking their statement and reviewing their documents and knowledge.

### **Estimates, penalty, assessment**

- 16.(a) In the event that the Contractor fails to remit all amounts due and owing to the City or fails to submit the required reports, the Finance Director may make an estimate based on the information available to the Finance Director of the amount of money owing to the City and, upon such basis, compute and assess, in addition thereto, an amount equal to ten percent (10%) thereof, together with interest on any such delinquent amounts at the rate of one and one-half percent (1½%) per month from the date when due until paid in full.
  - (b) In such event, the Finance Director shall give to the Contractor written notice of such estimates, penalty and interest which notice shall be placed in the U. S. Mail, postage prepaid, First Class at the address of the Contractor.
  - (c) Any such estimate shall become due and payable in full to the Finance Director from the Contractor twenty (20) days from the date of mailing the notice, provided however, that within such twenty (20) day period, the Contractor may submit a written petition to the Finance Director for a revision or modification of such amounts and, within such twenty

City with respect to any rights to claim or obtain any damages whether indirect, special or consequential.

**Entire agreement**

21. This agreement constitutes the entire agreement of the parties and supersedes any prior discussions, agreements or negotiations.

**Notice**

22. Notice pursuant to this agreement shall be given by first certified mail to the address listed under the signature lines or to such other address as a party may hereafter designate by certified mail.

**Term**

23. The term of this agreement is for the period from **January 1, 2018 through December 31, 2018**. In the event People's Ordinance 34 is repealed, or found to be unconstitutional or unenforceable by a court of competent jurisdiction, this agreement shall terminate. This agreement shall terminate if the Property is annexed to the City; such termination shall be effective when the City's lodging tax becomes effective as to the Property.

**Collection costs**

24. In case of failure to pay the amounts owing to the City hereunder, or any portion thereof, Contractor agrees to pay to the City, in addition to amounts otherwise provided for herein, reasonable attorney's fees (including the cost to the City for the use of the City's attorneys), plus the costs of any experts, plus costs.

**Attorneys Fees**

25. Each party agrees to pay its own attorney's fees if litigation arises hereunder or as a result from enforcement or interpretation of this agreement.

**Statute of limitations**

26. Contractor agrees that the City may commence efforts to collect amounts due hereunder at any time during the three full calendar years after the date on which any amount was or is payable to the City. Contractor agrees to waive any statutory provision which is more favorable to the Contractor. In the event of a false or fraudulent report or remittance, Contractor agrees that the time within which the City may commence to collect amounts due hereunder shall be ten years after the date on which any amount is due or payable to the City.

**Severability**

27. The parties agree that the several provisions and terms of this agreement are intended to be severable. If any such provision, sentence, clause or term is declared unenforceable or invalid by a court of competent jurisdiction, such unenforceability or invalidity shall not affect the remaining terms, provisions, sentences or clauses.



Attest:

City of Grand Junction  
250 North 5th Street  
Grand Junction CO 81501

*Wanda Winkelmann*

Wanda Winkelmann  
City Clerk

By:

*Barbara J. Bowman*

Barbara J. Bowman  
Director of Sales  
Visit Grand Junction

Attest:

Secretary

By:

*[Signature]*

(Owner/Manager)

*Kevin Bray*

(Please print name)

*Manager*

Title

Address:

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