

## CONTRACT

THIS CONTRACT, made and entered into this 5th day of April, 1993, by and between the City of Rolla, Missouri, hereinafter referred to as the "City," and the Rolla Area Chamber of Commerce, a not-for-profit Missouri corporation, hereinafter referred to as the "Contractor."

### WITNESSETH:

WHEREAS, the Contractor desires to promote tourism and conventions in the City in accordance with the Contractor's proposal for and at a cost not to exceed the amount generated and collected by the motel tax authorized by the voters of the City of Rolla; and

WHEREAS, the City desires to retain the services of the Contractor to promote tourism and conventions in the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

#### 1. TERM

The term of this Contract shall be from July 1, 1993, to June 30, 2018, subject to any changes to which both the Rolla City Council and Rolla Area Chamber of Commerce must assent to in writing.

#### 2. SCOPE OF SERVICES

The City will engage the services of the Contractor to establish and perform services which are more particularly described in the Contractor's proposal, attached hereto as Exhibit 1 and incorporated herein by reference.

#### 3. CONTRACT ADMINISTRATION

The City designates the City Administrator as its representative to whom all communications relating to this Contract shall be directed.

The Contractor designates the RACC President/CEO as its representative for all work performed under this Contract.

The aforementioned representatives of both the City and Contractor shall have primary responsibility and authority on behalf of each respective party to administer this Contract and to agree upon procedures for coordinating the efforts of both parties under this Contract.

#### 4. FURNISHING INFORMATION

All information, data, and reports such as city maps and census demographics as are existing, available, and necessary for the carrying out of the work shall be furnished to the Contractor by the City, and the City shall cooperate with the Contractor in carrying out the services.

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## 5. COPYRIGHTS

The Contractor shall defend, indemnify and hold the City harmless from any and all claims or causes of action, including attorney's fees and legal expenses, arising out of or based upon any alleged infringement of any copyright, or any alleged invasion or infringement of any right of any third party in connection with the Contractor's performance of work hereunder.

## 6. REPORTS

### A) Quarterly Reports

The Contractor shall submit an administrative progress report to the City, on a quarterly basis, which describes the work performed during the quarter. This report shall be a synopsis of the activity undertaken.

### B) Other Reports

The Contractor shall submit to the City such other reports as may be requested or are necessary to inform the City of immediate problems which require City action.

## 7. PERSONNEL

The Contractor will secure such personnel as are necessary to carry out its program. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder will be performed by the Contractor or under its direct supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.

## 8. KEY PERSONNEL AND PROGRAM ORGANIZATION

The Contractor will perform all of its services under this Contract through a staff under the direction of its designated representative, who will be responsible for the management, scheduling, planning and coordination of the work, and for communications between the Contractor and the City, and for the overall fulfillment of all obligations of the Contractor under this Contract.

## 9. PAYMENT

Payments from the City to the Contractor for services under this Contract will be made as follows:

90% of the revenue derived from the 3% motel tax will be paid to the RACC on the first of each month.

It is expressly understood that in no event will the total reimbursement under the terms of this Contract exceed the amount generated and collected by the motel tax authorized by the voters of Rolla for the corresponding period of the term of this Contract. It is understood and agreed by all parties that the City shall in no event incur indebtedness or act as guarantor or endorser of the credit of RACC, nor shall any city revenue be pledged or encumbered for the

benefit of RACC except as consideration for services rendered under this Contract.

### TERMINATION

If, through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination within 120 days of the city's discovery of said failure or violation unless the failure or violation is corrected within said 120 day period.

### 11. CITY-CONFLICT OF INTEREST

No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this Contract; provided however that said officers and employees may subscribe as members of the RACC.

### RIGHT OF AUDIT

#### A) Contractor's Books and Records

The Contractor shall keep accurate reports and other records showing in full detail the costs for which the Contractor claims for the use of the motel tax funds. The City may examine, at any time during regular business hours, such reports and other records at the Contractor's office, and the Contractor agrees that it will produce such records whenever required by the City. Any expense incurred by the Contractor to prepare the records for audit will be at the expense of the Contractor.

#### B) Subcontractor's Books and Records

The Contractor agrees to include the substance of this section in all subcontracts to be performed, giving the City the right to audit the books and records pertaining to any such subcontract.

### INSURANCE

During the performance of all work under this Contract or any subcontractors hereunder, the Contractor and its subcontractors shall maintain the following coverage. Proof of this coverage will be provided annually to the City of Rolla, or more often if the insurance coverage is of a lesser term than one year. This Proof of Coverage (Certificate of Insurance) shall name the City of Rolla as additional Insured, except in the Case of Worker's Compensation Coverage.

1. Worker's Compensation - as required by Law.
  2. Commercial Comprehensive General Liability - with a minimum coverage amount of \$1,000,000 per single occurrence with no aggregate limit.
  3. Comprehensive Automobile Liability, including owned, non-owned, and hired cars, with minimum limits of: \$800,000 Bodily Injury and Property Damage combined.
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All Coverage evidence required in this contract must have a 30 day notice of cancellation on the Certificate of Insurance. All Certificates of Insurance shall be sent to the City of Rolla Finance Department two weeks in advance of the lapse of the prior Certificate of Insurance.

14. DISCRIMINATION

The Contractor agrees, in the performance of this Contract, not to discriminate on the grounds or because of race, creed, color, national origin or ancestry, sex, religion, age, handicap, or political opinion or affiliation, against any employee of the Contractor or applicant for employment, and shall include a similar provision in all subcontracts let or awarded hereunder.

15. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor with respect to all services performed hereunder, and nothing contained herein shall constitute or designate the Contractor or any of its agents or employees as agents or employees of the City of Rolla, Missouri.

The Contractor and its agents, employees, and subcontractors shall not be entitled to any of the benefits established for the employees of the City, nor be covered by the Worker's Compensation Program for the City.

16. INDEMNIFICATION AND LIABILITY

The parties mutually agree to the following:

A) In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, whether or not caused by or resulting from City's negligence, arising out of or in any way connected with a breach of this Contract.

B) The Contractor shall defend, indemnify, and hold the City harmless from and against any and all claims, losses, and causes of action arising out of any claims or causes of action, including but not limited to personal injuries, death, or damage to property which are incurred by the Contractor, or any third party arising out of or in any way connected with the services performed by the Contractor pursuant to this Contract.

C) The Contractor assumes full responsibility for relations with subcontractors, and shall defend, indemnify and save harmless the City from and against any and all liability, suits, claims, damages, costs (including attorneys' fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with this contract, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of the City, its agents or employees.

~~17.~~ APPLICABLE LAWS

The Contractor agrees to comply with all laws of the United States of America, the State of Missouri, and the City of Rolla which are applicable to work being performed by the Contractor under this Contract.

18. JURISDICTION

The parties mutually agree that jurisdiction and venue for the purposes of any action resulting from this Contract by the parties shall be in Phelps County, Missouri.

19. NOTICES

All notices required or permitted hereunder and required to be in writing may be given by first class mail addressed to City, P.O. Box 979, Rolla, Missouri, 65401, and the Contractor at their legal mailing address. The date of delivery of any notice shall be the date falling on the second full day after the day of its mailing.

20. CONTINGENCIES

This Contract is contingent upon the Contractor maintaining a not-for-profit corporation.

APPROVED BY THE CITY OF ROLLA, MISSOURI, ON THE 5th DAY OF April, 1993.

ATTEST:

Carole James  
City Clerk

Ray Powell  
Mayor

APPROVED BY THE CONTRACTOR ON THE 6th DAY OF April, 1993.

ATTEST:

Carl E. Eberly  
Secretary  
CHAIRMAN

Donald D. [Signature]  
President/CEO

Rolla voters approved  
3pet motel sales tax  
to go to Rolla Area  
Chamber of Commerce for  
Tourism promotion on  
April 6, 1993 by a  
1,572-684 vote (70.8pet).  
Only question in city  
approved contract day before  
voters approved tax & also  
distributed!

EXHIBIT I

PROPOSAL

By

Rolla Area Chamber of Commerce

For

Use of the 3% Motel Tax

A. The City of Rolla shall pass through the proceeds of the motel tax by means of this contract to the Rolla Area Chamber of Commerce (RACC) in order that the RACC may build and manage a Convention and Visitor Tourist Center and engage in such other activities that appropriately support the promotion of tourism for the Rolla area.

B. The City of Rolla shall retain ten (10) percent of the total proceeds from the motel tax for administration and management of the tax and to enhance the program for tourism.

C. Ninety (90) percent of the tax proceeds shall be paid to the Rolla Area Chamber of Commerce on the first day of each month to promote Rolla as a convention, visitor and tourist center.

D. The Rolla Area Chamber of Commerce shall be obligated to expend the proceeds of the motel tax in the following manner:

1. Up to, but not more than 1/3 (one-third), would be used for debt service (principal, interest, taxes and insurance) on the construction of the Visitor Center and/or for any present or future capital improvements to the Center and/or to the property on which the Center is located (to include repair, refurbishment, remodeling, additional construction, maintenance, landscaping). If, at any time the one-third (1/3) proceeds from the motel tax is not sufficient to meet the needs of debt service only (for initial construction of the Visitor Center), the Chamber may be allowed to exceed the one-third restriction to the extent required to meet debt service needs. The Chamber would be required to advise the City in anticipation of that situation. It is understood and agreed by all parties that the City shall in no event incur indebtedness or act as guarantor or endorser of the credit of RACC, nor shall any city revenue be pledged or encumbered for the benefit of RACC except as consideration for services rendered under this Contract.
  2. Up to, but not more than one-third (1/3), would be used for general and administrative expenses necessary to the operation of the Visitor Center (salaries, telephone and postage, supplies and copying, insurance). The Chamber's intention,
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subject to sufficient income, is to keep the Center open twelve months of the year and during the peak tourism season, seven days a week.

3. Not less than one-third (1/3) would be used in the creation and purchase of materials and for activities that will be direct promotion of the Rolla area and of the Visitor Center. These promotional tools and activities include:
    - a. The development, printing and distribution of at least one brochure. Specialized brochures may be developed later and, of course, brochures will need to be revised and updated at least biannually. As we are probably speaking of mailing thousands of brochures each year, this may well be the major promotional expense on an on-going basis.
    - b. The development of a marketing plan so that funds will be used most effectively and prudently. This will require establishing relationships with other chambers (Branson, Lake of the Ozark) as well as with the Missouri Division of Tourism both for the purpose of learning what is working for them, as well as for referral purposes. We will want and need to be able to distribute our brochures through other chambers.
    - c. Establishing relationships and attending tourism industry conventions in order to make contact with bus companies, tour companies and travel agents, all of whom can have a positive impact on Rolla's tourism business.
    - d. Working with Rolla businesses to create special tourism promotions, to co-op in placing advertising and in developing special one and two day tours that would bring people to our area, such as spring dogwood, fall foliage, historical, bluegrass music, big springs/river and antiquing tours. Each of these would probably require specialized brochures.
    - e. Placing signage, both official Missouri Highway Department signs for the Visitor Center and billboards, which promote local businesses, points of interest and the Visitor Center.
    - f. Monthly briefings at Fort Leonard Wood for new personnel who are going to be living in our area for several months and who do shop, eat and recreate in Rolla.
    - g. Evaluate the resources and promote Rolla as a location for small and medium size conventions. This requires making organizations throughout the state aware (mailings and personal contacts) that Rolla can and wants to accommodate their meetings and conventions. Two and three day activities of this sort for 40 to 200 people can be handled in Rolla and can bring in considerable revenue for businesses and the City.
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- h. Conduct seminars for local businesses most directly impacted by tourism such as courtesy and customer satisfaction. These should be offered on an on-going basis as friendly people and good service will be remembered.
- i. Advertising in brochures produced by other chambers, the Missouri Division of Tourism, the tourism industry trade (tour companies and travel agents).

The Rolla Area Chamber of Commerce will produce an audited financial statement within 60 days after the end of the Chamber's fiscal year (January 1-December 31) with a detailed and itemized notation of expenditures by the three categories as outlined above.