



City Council Staff Report

Subject: Advertising and Sponsorship Sales Agreement for the Park City Ice Arena
Author: Amanda Noel, Park City Ice Arena, Program Coordinator
Department: Ice
Date: September 25, 2014
Type of Item: Administrative- Contract

Summary Recommendations:

Approve an addendum for the minor Professional Services Agreement (PSA) attached as Appendix A, allowing the Ice Arena to continue with the Agreement with Senske LLC to generate revenue through the sale of advertising space and program sponsorships. We recommend that the term of the contract be changed to a two year term instead of a one year term provided that sales targets are met. Our final recommendation is to remove the \$750 base pay from compensation included in the terms of the Original Agreement.

Topic/Description:

Staff is bringing the Agreement to Council for renewal as Senske LLC met the sales goals for the six month and eighteen month bench marks and the Original Agreement states that it is subject to renewal with an approval by City Council, each year for up to three additional years.

Staff is proposing an additional amendment to remove the base pay from the compensation, regardless of monthly billable sales. The Addendum also seeks to renew the Original Agreement for a the period of October 8, 2014 through October, 8, 2016 with automatic renewal for the period October 8, 2016 through October 8, 2018 if the provider meets or exceeds actual revenue collected of \$100,000 for the period July 1, 2014 through June 30th, 2016.

Background:

The Park City Ice Arena opened in February of 2006. In its first fiscal year, the Ice Arena generated \$46K in revenue. At this time, the General Manager was able to devote time to selling advertising space in the facility because the rink was under construction. In the following years, revenue associated with the sale of ad space and sponsorships has declined each year. The decline is directly related to the increase of ice use, longer operating hours and growing programs. The associated rise in ice related revenues have more than compensated for the loss of ad sales revenue. Due to increased demands on staff time and increase in other revenues, ad sales became a decreasingly important focus, and sales were limited to a few contract renewals and one or two new sponsors who approached the rink.

After the opening of the Arena, staff made an effort to increase this form of revenue on two separate occasions. The first was in 2007, when the City entered into an agreement

with Shindig Marketing and Events to sell naming rights for the Ice Arena and the Quinn's Junction Sports Complex. The goal at this time was to sell the naming rights for the Ice Arena for \$1M. The base pay for this contract was \$3,500 per month with an additional \$10,750 for the development of sales materials and 10% commission on the first \$1M raised and 12% commission on any sales over \$1M. The contract was terminated in February of 2008 due to lack of success, but Shindig was paid \$1,500 due to work they performed with Swire Coca Cola that resulted in a 5 year, \$15k sponsorship for the Sports Complex.

The second attempt to increase advertising revenue was in 2010. Jason Glidden issued an RFP for the sale of advertising space at the Ice Arena in January of that year. The RFP resulted in one proposal submission. Jason and Ken Fisher interviewed the person who submitted the proposal, it was determined that it wasn't in the best interest of the City to pursue the RFP and no contract was granted.

During an eight month period of August 2013 to March 2014, Ice staff put a great deal of thought and effort into developing a plan for advertising and program sponsorship sales. It was decided that an internal part-time commission-based position would create inequities for staff compensation and was not compatible with the City pay plan.

Ice staff felt confident that a pay-for-performance commission based system for sales would realize the best return on investment for the Ice Arena. It was decided that Ice staff would issue an RFP and enter into a PSA with a person or firm for the service. Staff felt that an initial contract period of six months would be a good way to test if the program would provide a good return on the investment, and that if sales benchmarks were met, the contract would automatically renew for another year.

The RFP was posted to the City website on November 16, 2012 and the Legal Notice was published in the Park Record on November 17 and November 21, 2010. Although staff received multiple inquiries regarding the RFP, only one proposal was submitted. A review panel consisting of Jon Pistey, Jason Glidden and Amanda Noel met on November 28 to discuss the proposal. Staff determined that the proposal submitted by Matthew Senske was a good fit with the pay for performance philosophy, and that the submitter's previous experience in sports marketing and ad sales would be beneficial to our organization. In addition, Mr. Senske was employed at the Ice Arena at the time and has a strong understanding of the Ice Arena mission and its programs. Staff contacted Mr. Senske on November 28 to inform him that his was the successful proposal.

On April 8, 2014 the City entered the Original Agreement with Senske LLC. Senske LLC has been successful with advertising sales at the Ice Arena over the first eighteen months. The advertising program has gone very smoothly, with Matt running every aspect of the program. Matt has worked closely with the rink staff to avoid conflicts at the rink with his meetings as well as installation times. As the Ice Arena has continued to lower the deficit, advertising sales have been a welcome addition to the yearly financials.

During the first year of Matt's contract he also worked on a new beverage deal with Swire Coca-Cola. Matt was able to negotiate a new deal with Swire Coca-Cola that will pay the Ice Arena more than \$10,000 per year in marketing dollars while the previous contract only allotted the rink an average of \$3,000 per year, all the while maintaining other favorable contract terms.

Analysis:

Leading up until the fall of 2013 when the Original Agreement was established, staff at the Ice Arena felt that larger increases in revenue and the potential to decrease the subsidy for the Ice Arena were becoming limited to two potential areas: advertising sales and retail. Due to the large amount of capital that would be needed to significantly expand the retail operation at the Ice Arena, staff felt the better option would be to pursue advertising sales. Through the life of the Ice Arena, advertising sales has seen the following decline due to lack of staff time available to pursue new sponsors. The chart below shows the decline in advertising sales revenue since the Arena opened in February of 2006 until the end of 2013 when Senske LLC began selling advertising and sponsorships.

	FY '06	FY '07	FY '08	FY '09	FY '10	FY '11	FY '12	FY '13	FY '14	FY '15
Revenue	\$45,842	\$28,714	\$23,348	\$12,509	\$7,801	\$10,349	\$6,548	\$4,320	\$39,620	\$12,300+

Matt needed to reach \$20,000 in sales during the first six months. The attachment detailing monthly billable sales shows billable sales from April of 2013 through September 2013 of \$16,580. Matt sold an additional \$4,320 in the first 8 days of October. Since the first six month period was April 8, 2013- October 8, 2013 Matt did in fact exceed his sales goals by selling \$20,900 in yearly contracts and \$42,100 in total contract amounts. Matt then needed to sell \$60,000 total over the first eighteen months and has currently sold \$56,240 in yearly contracts and \$112,600 in total contract amounts through the end of August 2014. Matt has projected to sell at least another \$6,600 in September to put him over the eighteen month sales goal. There is no concern that Matt will not hit the eighteen month sales goal before the contract renewal date of October 8, 2014. Matt will bring the most up to date sales figures to the contract renewal meeting with City Council.

To give a comparison of numbers to show Matt's success, there is a chart below showing the fiscal year revenues from advertising at the Ice Arena. As you can see, Matt's current total contract revenue through August 2014 is almost equivalent to the grand total advertising revenue over the first five years of the Ice Arena's existence. Matt's total revenue could top the seven year grand total once the advertiser contracts are signed in September.

<u>Fiscal Year</u>	<u>Revenue</u>	<u>Cumulative Total Revenue</u>
2006	\$45,842.00	
2007	\$28,714.00	\$74,556.00
2008	\$23,348.00	\$97,904.00
2009	\$12,509.00	\$110,413.00
2010	\$7,801.00	\$118,214.00
2011	\$10,463.00	\$128,677.00
2012	\$6,549.00	\$135,226.00
2013	\$4,320.00	\$15,200.00
2014	\$39,620.00	\$100,700.00
2015	\$17,000+	\$120,000+

The Original Agreement allows for a compensation schedule based on a 60/40 split of revenue in favor of the Provider, with payment being determined in the following way:

Month	Base Pay	Payment
1 through 6	\$1000 guaranteed	commission = (total monthly sales x .6) - \$1000
7 through contract end	\$750 only if sale made	commission = (total monthly sales x .6) - \$750

The Original Agreement outlined an initial term for six months with a sales goal of \$20K. Upon meeting the sales goal, the contract renewed for another 12 months, with a sales goal of \$60,000 in order for the Agreement continue. The Original Agreement is subject to renewal by City Council, each year for up to three additional years. The Agreement is currently subject to Council for renewal.

At this time, in addition to renewal, the Ice Arena and Seneke LLC are proposing the addendum which includes removing the base pay from compensation. In good faith, Matt Senske has proposed removing base pay from compensation, regardless of sales. After two years selling advertising and sponsorship, Senske LLC has established itself and a successful track record and is comfortable moving forward without the safety net of base pay.

The other proposed change in the addendum is to the term of the contract. With 18 months of success in this program, staff recommends amending the term to a two year term (October 8, 2014- October 8, 2016) with automatic renewal for an additional two year term (October 8, 2016- October 8, 2018) with sales goals required for automatic renewal. The proposed sales goal is \$100,000 of actual revenue collected during the period July 1, 2014- June 30, 2016. The parties agree that the Original Agreement would terminate on October 8, 2016 if the revenue goal for the period is not met. Termination of the Agreement on behalf of either party will continue to be available with 30 days' notice.

The Original Agreement continues to have a maximum payout of \$200k over four years which is equal to \$333k of revenue for the City. This Agreement continues to include the ability to pursue the sale of naming rights with a minimum of \$75K per year in revenue and a minimum of a five year contract with the Ice Arena. Any naming rights sale will require approval from City Council.

The types of advertising to be sold at the Ice Arena include program sponsorships for any rink run programs, such as Learn to Skate, Learn to Play Hockey and adult hockey leagues, and advertising space includes, but is not limited to banners on the Ice Arena walls, dasher boards, and glass decals.

Department Review:

This report was reviewed by the Recreation, Library, Golf, Budget, Finance, HR, Legal, and Executive departments.

Alternatives:

A. Approve:

Approving the request will allow the Ice Arena to continue to increase revenue and decrease its subsidy, with lower risk to the City with the elimination of base pay and less frequent presentations to Council.

B. Deny:

Denying the request will mean the Ice Arena will continue to realize minimal revenue from this source. Under the current Agreement, if the City decides not renew the Agreement, the City would be required to pay the Provider all commissions due on future contracted revenue at the rate of 60% of the value of the contracts. The current estimated amount is approximately \$40,000.

C. Modify:

Staff will return to Council at a later date based on the requested modifications.





D. Continue the Item:

This will result in the same outcome as modifying the request

E. Do Nothing:

This will have the same effect as denying the request.

Significant Impacts:

Which Desired Outcomes might the Recommended Action Impact?	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
	+ Unique and diverse businesses + Internationally recognized & respected brand		+ Community gathering spaces and places + Entire population utilizes community amenities	+ Fiscally and legally sound + Well-maintained assets and infrastructure + Streamlined and flexible operating processes
	Very Positive 	Neutral 	Positive 	Very Positive 

Funding Source:

Funding will be received through the general fund. A request which shows the expense and revenue offset has been submitted for an FY '14 budget adjustment. This request will have revenue offsets that exceed the expense for an overall benefit to the Ice budget in the General Fund.

Consequences of not taking the recommended action:

The consequence of not taking the recommended action is that the Ice Arena will not be able to maximize revenue generation through advertising and sponsorships. Also, the City would be required to pay the Provider all commissions due on future contracted revenue at the rate of 60% of the value of the contracts. The current estimated amount is approximately \$40,000.

Recommendation:

Approve an addendum for the minor Professional Services Agreement (PSA) attached as Appendix A, allowing the Ice Arena to continue with the Agreement with Senske LLC to generate revenue through the sale of advertising space and program sponsorships. We recommend that the term of the contract be changed to a two year term instead of a one year term provided that sales targets are met. Our final recommendation is to remove the \$750 base pay from compensation included in the terms of the Original Agreement.

Attachments:

Attachment A: Addendum

Attachment B: Billable Sales Tracking

Attachment C: Original Agreement: Minor Professional Service Provider Agreement with Scope of Services

FIRST ADDENDUM TO PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM is made and entered into in duplicate this ____ day of _____, 20__, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah (“City”), and __Senske LLC_____, a Utah limited liability company (“Service Provider”), to amend the PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT signed and executed by the Parties on _____.

WITNESSETH;

WHEREAS, the parties entered PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT (hereinafter “Original Agreement”); and

WHEREAS, part of the scope of services is for service provider to receive a base pay of \$750 per month in months when there is a billable sale;

WHEREAS, the parties desire to amend the Original Agreement to remove base pay from compensation, regardless of sales.

WHEREAS, the Original Agreement states that renewal is subject to approval by City Council each year for up to three years, terminating October 8, 2016.

WHEREAS, the parties desire to amend the Original Agreement to a two year term, from October 8, 2014 through October 8, 2016, with automatic renewal for the period October 8, 2016- October 8, 2018 if the provider meets or exceeds actual sales of \$100,000 for the period July 1, 2014 through June 30, 2016.

WHEREAS, the parties agree that this contract will terminate on October 8, 2016 if the sales goal for the specified two year period is not met.

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. AMENDMENTS:

a. **TERM.**

- i. Extension of Term. The term of the Original Agreement shall be extended to a termination date of October 8, 2016.

- ii. Automatic Renewal. The terms of the Original Agreement shall be automatically renewed for the period October 8, 2016- October 8, 2018 if the Service Provider meets or exceeds actual sales of \$100,000 for the period July 1, 2014 through June 30, 2016.
- iii. Termination. The contract shall terminate on October 8, 2016 if the sales goal for the specified two year period is not met.

b. **COMPENSATION AND METHOD OF PAYMENT.** The Service Provider shall not receive a base salary, regardless of billable sales. Therefore, Paragraph 3.D Base salary is now deleted.

2. **OTHER TERMS.**

All other terms and conditions of the Original Agreement shall continue to apply.

3. **ENTIRE AGREEMENT.** This First Addendum is a written instrument pursuant to Section 22 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

IN WITNESS WHEREOF the parties hereto have caused this First Addendum to be executed the day and year first herein above written.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
P.O. Box 1480
Park City UT 84060-1480

Diane Foster, City Manager

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

Senske LLC:

Name: Matt Senske
Address: 900 Bitner Road, Apt. G34
City/State/Zip: Park City, UT 94098
Tax ID#: 46-2324994
PC Business License #:B-013335_____

Printed Name

Signature

Title

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this day of , 20__ , before me, the undersigned notary, personally appeared _____, personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (*title*) for _____, a limited liability corporation

Notary Public

Monthly Billable Sales

Month	Sales	Cumulative Total	
April-13	\$4,320.00	\$4,320.00	
May-13	\$0.00	\$4,320.00	
June-13	\$4,560.00	\$8,880.00	
July-13	\$0.00	\$8,880.00	
August-13	\$0.00	\$8,880.00	
September-13	\$7,700.00	\$16,580.00	
October-13	\$4,320.00	\$20,900.00	
November-13	\$3,200.00	\$24,100.00	
December-13	\$3,800.00	\$27,900.00	
January-14	\$7,160.00	\$35,060.00	
February-14	\$0.00	\$35,060.00	
March-14	\$1,800.00	\$36,860.00	
April-14	\$7,320.00	\$44,180.00	
May-14	\$0.00	\$44,180.00	
June-14	\$3,700.00	\$47,880.00	
July-14	\$0.00	\$47,880.00	
August-14	\$8,360.00	\$56,240.00	
September-14	\$6,600.00	\$62,840.00	Projected

6 Month Total	\$16,580.00	\$0.00
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(Senske, LLC)

**PARK CITY MUNICIPAL CORPORATION
PROVIDER/PROFESSIONAL SERVICES AGREEMENT
(MINOR SERVICE)**

THIS AGREEMENT is made and entered into in duplicate this 8 day of April, 2013, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Senske, LLC ("Service Provider").

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the service provided exposes the City to minimal insurance risk; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). The total fee shall not exceed **\$200,000 (two hundred thousand dollars)** over the possible four and a half (4.5) year term of this Agreement.

2. TERM.

A. The term of this Agreement shall commence on the date of execution of this Agreement for a period of 6 months. The term of the Agreement will automatically be extended for an additional 12 months with an overall term of 18 months if, during

(Senske, LLC)

the initial 6 month term of the Agreement, Service Provider meets a sales goal of \$20,000 in revenue as calculated in paragraph 3 of this Agreement below.

- B. Option to Renew. If the term is extended to 18 months and total sales meet or exceed \$60,000 over the 18 month term of the Agreement, this Agreement shall be renewed subject to approval by City Council each year for up to three (3) additional years. The Agreement will automatically expire yearly on the anniversary of the end of the initial 18 month term if an annual revenue goal of \$60,000 is not achieved.
- C. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party pursuant to paragraphs 3.E.2 and 17 below.

3. COMPENSATION AND METHOD OF PAYMENT.

- A. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- B. For all “extra” work the City requires, the City shall pay the Service Provider for work performed under this Agreement as subsequently agreed to by both parties in writing.
- C. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter.
- D. Base Salary: The Service Provider shall be paid a base pay of one thousand dollars (\$1,000) per month for the first six (6) months of this Agreement. If the Agreement is extended beyond six months, Service Provider shall be paid seven hundred and fifty dollars (\$750) per month only in those months when there is a billable sale made for the remainder of the Agreement.
- E. Commissions: Commission will be paid monthly upon invoice.
 - 1. The combination of commission and base pay for sales during each month will be equal to 60% of the actual value of any sales contract. Commission will be calculated by multiplying the total actual value of new contracts sold during the previous month by .6 and then subtracting the base pay from that amount.

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

Example: \$3926 total sales value x .6 = \$2355.60 total compensation. Subtract the base pay from \$2355.60 to determine the commission paid to the provider.

2. If the City decides to terminate or not renew the Agreement, The Provider will be paid all commission due on future contracted revenue at a rate of 60% of the value of the contracts. If the provider decides to discontinue service, or can no longer provide service, no commission will be paid on future contracted revenues. If, however, the Service Provider is offered a new or expanded role within the City, part of the terms of leaving this position will be negotiating compensation for future amounts due on contracts.

4. REPORTS AND INSPECTIONS.

- A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.
- B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly, to this Agreement.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. HOLD HARMLESS INDEMNIFICATION.

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.
- B. Service Provider does hereby remise, release, forever discharge and covenant not to sue PARK CITY MUNICIPAL CORPORATION, its agents, servants, employees, officers, successors and assigns, and/or heirs, executors and administrators, and also any and all other persons, associations and corporations, whether herein named or referred to or not, and who, together with the above named, may be jointly and severally liable to the Service Provider, of and from any and all, and all manner of, actions and causes of action, rights, suits, covenants, contracts, agreements, judgments, claims and demands whatsoever in law or equity, including claims for contribution, arising from and by reason of any and all KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN bodily and personal injuries or death, damage to property, and the consequences thereof, which heretofore have been, and which hereafter may be sustained by the Service Provider or by any and all other persons, associations and corporations, whether herein named or referred to or not, from all

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

liability arising out of, in connection with, or incident to the execution of this Agreement

- C. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

7. INSURANCE.

The City agrees to waive insurance requirement upon Service Provider's agreement to hold the City harmless pursuant to Paragraph 7 (B) above. Service Provider hereby acknowledges that their insurance policy is the primary coverage.

8. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

9. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- C. If this agreement is entered into for the physical performance of services within Utah the Service Provider shall register and participate in the E-Verify, or equivalent program. The Service Provider agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-11-103.

10. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

11. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

- D. Each subcontractor that physically performs services within Utah shall submit an affidavit to the Service Provider stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. 63G-11-103.

12. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

13. MAINTENANCE AND INSPECTION OF RECORDS.

- A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

- B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

14. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

15. PROHIBITED INTEREST.

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

16. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

17. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement. If the City fails to comply with the terms of the Agreement and does not correct the issue within three (3) days written notice, the Provider may terminate the agreement and the City will pay all remaining commission due on current and future contracts within 14 days of termination of the Agreement.

18. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

19. ATTORNEYS FEES AND COSTS.

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

20. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

21. SEVERABILITY.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision, which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

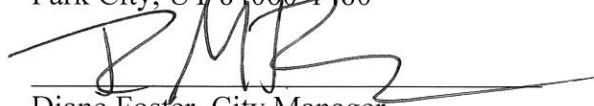
Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

22. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
Post Office Box 1480
Park City, UT 84060-1480

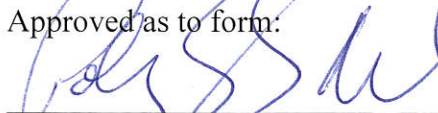


Diane Foster, City Manager

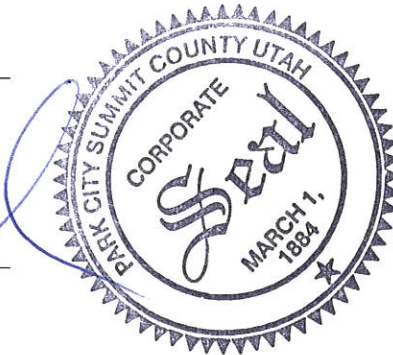
Attest:



City Recorder's Office

Approved as to form:


City Attorney's Office



Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

SERVICE PROVIDER:

Name: Senske, LLC by Matthew Senske
Address: 900 Bitner Rd. # G34
City/State/Zip: Park City, UT 84098
Tax ID#: ~~367-96-2575~~ 46-2324994
PC Business License #: _____

Matthew Senske
Printed Name

Matthew Senske
Signature

Owner
Title

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this 8 day of APRIL, 20B personally appeared before me MATTHEW SENSKE, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the (title) OWNER SENSKE of LLC, and acknowledged that he/she signed it voluntarily for its stated purpose as OWNER (title) for SENSKE LLC, a _____ corporation.

Janet M. Scott
Notary Public



Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

EXHIBIT "A"

SCOPE OF SERVICES

1. Service to be Provided

Senske, LLC agrees to provide the following services for Park City Municipal Corporation:

- Sell advertising space at the Park City Ice Arena and Quinn's Junction Sports complex in areas agreed upon by both parties.
- Sell sponsorship packages for programs developed and run by the Park City Ice Arena.
- Enter into contracts with service and product suppliers that will help reduce operating expenses or provide other benefits to the operation and programming at the Park City Ice Arena.
- Maintain relationships with current sponsors, ensure payment of contracts, provide direction/support for designing artwork, coordinate production of advertising materials, and ensure timely installation of advertising materials.
- Produce and maintain a spreadsheet for tracking sponsors, contract amounts and commissions. Invoice the Park City Ice Arena monthly for base pay and commission amounts due to the Service Provider.
- Produce a comprehensive price sheet for advertising space and program sponsorships that includes definitions for exactly what the sponsor will receive for that price.
- Work with the Park City Legal Department to finalize a standard sales contract for sponsorship and advertising.
- Communicate with Ice Arena management regarding sales related issues, completed sales, and any proposed contracts that require changes to the price sheet.
- The Service Provider will have exclusive rights to any current inventory and all potential future advertising at the rink while under contract with the city and that all potential advertisements/sponsorship must go through the Service Provider.

2. Sponsorship Approval

Ice Arena management can deny the terms of any contract or the appearance of any advertising or sponsorship as it sees fit based on the best interests of the Ice Arena, Park City Municipal Corporation or its guests. The City will not allow sponsorships or advertising from alcohol or

Park City Municipal Corporation Provider/Professional Services Agreement- (Matthew Senske)

tobacco companies, but may allow sponsorships by restaurants. An example of this type of business would be “Squatters Roadhouse.”

The City, at its sole discretion, may determine not to display any marketing materials it deems inappropriate, unsuitable, or incompatible with the promotion of the City’s core values or mission and may remove displays at any time for any reason without notice.

The Service Provider will meet with Ice Arena management to discuss any potential issues a new sponsorship may cause. The Service Provider will also meet with Ice Arena management to discuss any changes to the established pricing for sponsorships.

3. In-Kind Sponsorships

The Service Provider will meet with the Finance Manager to ensure understanding of all laws regarding the proper execution of in-kind sponsorships, and the Service Provider agrees to ensure that all applicable laws are followed in the pursuit and execution thereof.

4. Naming Rights

The sale of naming rights for the Park City Ice Arena will require City Council approval. Commission for the sale of naming rights will be 40% of the yearly value of the contract. Naming rights must be approved by City Council, and will not be considered unless the contract amount is a minimum of \$75,000 per year for a minimum of 5 years.

5. Expenses

The Service Provider is responsible for all expenses related to the scope of work including, but not limited to, gas, mileage, car expenses, insurance, and mobile phone.

6. Work Space

The Service Provider will be allowed to work from the Park City Ice Arena, and will be allowed the use of City phones and computers for the sole purpose of communicating with current and prospective sponsors.

7. Attire

The Service Provider will be loaned Park City Ice Arena logoed apparel to wear as a representative of the Park City Ice Arena to reinforce branding and ensure a professional

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appearance. Any apparel is the property of Park City Ice Arena and must be returned at the end of the Agreement.