

**SERVICE CONTRACT BETWEEN THE TOWN OF CASTLE ROCK
AND THE DOWNTOWN MERCHANTS ASSOCIATION**

DATE: _____, 2016.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Town").

DOWNTOWN MERCHANTS ASSOCIATION, 18 S. Wilcox, #202, Castle Rock, CO 80104 ("DMA").

RECITALS:

A. The Town and the DMA agree to the terms and conditions by which Town will provide funding for designated functions of the DMA; and

B. The DMA will utilize the funding provided by Town to operate and provide the services described below:

- 1) Starlight Summer Movies (4)
- 2) Car Show
- 3) Oktoberfest
- 4) Two Date Night Movies
- 5) Concert Series (4)
- 6) Trick or Treat Street
- 7) Staffing and Administration

TERMS:

Section 1. Scope of Services. The DMA shall provide the services as defined in Recitals of this Service Contract. The Town's contractual obligation under this Service Contract shall not exceed \$75,000. Town shall pay the in 2 installments; \$37,500 (50%) on or before January 31, 2017, and \$37,500 (50%) on or before July 31, 2017.

The Town Manager shall be notified in advance movies proposed to be shown as Starlight Summer Movies. In the event the DMA selects a movie that is not rated G or PG, the Town Manager reserves the right to decline to financially participate in the support of any movie the Town may find inappropriate for Town funding as determined by the Town Manager.

Section 2. Term. The term of this Service Contract shall be from January 1, 2017 to December 31, 2017.

Section 3. Assignment. This Service Contract shall not be assigned by the DMA without the written consent of the Town.

Section 4. Notice. Any notice required or permitted by this Service Contract shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to

be given at the address set forth on the first page of this Service Contract, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.

Section 5. Reporting. The DMA shall submit in writing to the Town Manager, a report on its activities no later than July 31, and shall also submit a written annual report for 2017 no later than January 31, 2018. Such reports shall include, but not be limited to, financial reporting and information on Merchant Association achievements of 2017 performance objectives as outlined in their proposal attached as *Exhibit 1*.

Section 6. Prohibition Against Employing Illegal Aliens. DMA shall not knowingly employ or contract with an illegal alien to perform work under this contract. DMA shall not enter into a contract with a subcontractor that fails to certify to the DMA that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

DMA has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-verify program or the Department program, as defined in C.R.S. §§ 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively. DMA is prohibited from using the E-verify program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If DMA obtains actual knowledge that a subcontractor performing work under this Contract for services knowingly employs or contracts with an illegal alien, DMA shall:

A. Notify the subcontractor and the Town within three days that the DMA has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

B. Terminate the subcontract with the subcontractor if within three days of receiving notice required pursuant to this paragraph the subcontractor does not stop employee or contracting with the illegal alien; except that the DMA shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

DMA shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. §8-17.5-102(5).

If DMA violates a provision of this contract required pursuant to C.R.S. §8-17.5-102, Town may terminate the contract for breach of contract. If the contract is so terminated, the DMA shall be liable for actual and consequential damages to the Town.

Section 7. Insurance. DMA agrees to procure and maintain, at its own cost, the following policy or policies of insurance. DMA shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to the Contract Documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

A. DMA shall procure and maintain, and shall cause each subcontractor of the DMA in DMA's own policy the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.

2. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

3. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

B. The policies required above, except Workers' Compensation insurance and Employers' Liability insurance shall be endorsed to include the Town, its officers and employees, as an additional insured. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by DMA. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The DMA shall be solely responsible for any deductible losses under each of the policies required above.

C. Certificates of insurance shall be completed by DMA's insurance agent as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

D. Failure on the part of DMA to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which the discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by DMA to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to DMA from the Town.

E. The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$350,000 per person, \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Section 8. Additional Documents. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Service Contract.

Section 9. Entire Service Contract. This Service Contract represents the entire Service Contract between the parties and there are no oral or collateral agreements or understandings. This Service Contract may be amended only by an instrument in writing signed by the parties. If any other provision of this Service Contract is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Service Contract shall continue in full force and effect.

Section 10. Waiver. A waiver by any party to this Service Contract of the breach of any term or provision of this Service Contract shall not operate or be construed as a waiver of any subsequent breach by either party.

Section 11. Governing Law. This Service Contract shall be governed by the laws of the State of Colorado.

Section 12. Indemnification. DMA expressly agrees to indemnify and hold harmless Town or any of its officers or employees from any and all claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of the DMA or any of their employees or agents in performing work pursuant to this Service Contract. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to DMA.

Section 13. Worker's Compensation. The Merchants Association shall at its own expense keep in full force and effect during the term of this Service Contract Statutory Worker's Compensation Insurance.

Section 14. Independent Contractor. The DMA and Town hereby represent that the DMA is an independent contractor for all purposes hereunder. As such, the DMA is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. The DMA shall not create any indebtedness on behalf of the Town.

Section 15. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Service Contract, and all rights of action relating to such enforcement, shall be strictly reserved to Town and DMA, and nothing contained in this Service Contract shall give or allow any such claim or right of action by any other third party on such Service Contract. It is the express intention of the parties that any person other than Town or DMA receiving services or benefits under this Service Contract shall be deemed to be an incidental beneficiary only.

Section 16. Default and Remedies. In the event either party should default in performance of its obligations under this Service Contract, and such default shall remain uncured for more than 10 days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misare, Town Clerk

Paul Donahue, Mayor

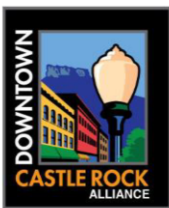
Approved as to form:

Robert J. Slentz, Town Attorney

DOWNTOWN MERCHANTS ASSOCIATION:

By: _____

Its: _____



Castle Rock Downtown Alliance

A partnership between the Downtown Development Authority and Downtown Merchants Association

Downtown Merchants Association

18 S. Wilcox Ste. 202
Castle Rock, CO 80104

June 24, 2016

Honorable Mayor Donahue and Castle Rock Town Council
Town of Castle Rock
100 N. Wilcox St.
Castle Rock, CO 80104

Dear Mayor Donahue and Town Council,

The Castle Rock Downtown Alliance, a partnership between the Downtown Merchants Association and Downtown Development Authority, thank you for this opportunity to present our request for a 2017 service contract. The Alliance is made up of two entities with different organizational structures and missions, and as such, the two entities will be submitting their proposals independently. The efforts of these two entities are complimentary and do not duplicate revitalization or redevelopment efforts in the Downtown district. Staffing for the combined Alliance is provided via partnership with the Castle Rock Economic Development Council as established in 2012. This partnership ensures an integrated and focused effort towards Downtown Castle Rock, reduces personnel and overhead costs, and brings a diverse skill set to the mission.

This service contract funding application proposes that the **Downtown Merchants Association** continues to provide its Event Series in Downtown consistent with the 2016 event offerings, utilizing requested funding from the Town of **\$75,000**. The events the Downtown Merchants Association produces will be in line with prior year's offerings, and brings visitors to Downtown Castle Rock to support the local economy, increase economic activity and vibrancy, and showcase the community's small town charm.

Downtown Castle Rock and the events produced by the Downtown Merchants Association are key pieces of goals set forth in the Town of Castle Rock's Vision 2020 Plan, specifically:

- Providing outstanding cultural and entertainment opportunities;
- Sustaining a high quality of life as a safe, family-friendly community;
- Maintaining a vibrant downtown; and
- Maintaining a strong sense of community and small-town character.

Per the direction from the Town, the remainder of this letter will follow items as outlined in the 2017 Funding Application:

Leverage

The Downtown Merchants Association leverages the funds from the Town to generate economic activity which supports Downtown businesses and generates sales tax. The events are not only a draw for the local community but have become a regional draw for the surrounding communities. The increase in

attendance at the events attracts additional sponsors and vendors which allows the Downtown Merchants Association to put on events that cost much more to produce than the amount of funds received from the Town. This translates directly to a higher return on investment for the Town because bigger events and more sponsors and vendors increases attendance which increases exposure for the Downtown businesses and increased Sales Tax revenue.

Contact

Kevin Tilson is the Director of the Alliance including both the Downtown Development Authority and Downtown Merchants Association. Following is his contact information:

Kevin Tilson

Castle Rock Downtown Alliance Director

303-688-7488

kevin@downtowncastlerock.com

Additional Funds

The Downtown Merchants Association is requesting a slight increase over the 2016 request. In 2016, Town Council approved \$61,600, the DMA is asking for an increase of \$13,400, or \$75,000 for 2017. The DMA would like to request a payment of half of these funds at the beginning of the year and half of these funds in the middle of the year. As events have grown, there is a greater need to put money down to reserve bands, stages and attractions in advance of the event.

The additional funds being requested are matched funds from what the DMA has raised from the private sector. The DMA has already raised \$75,000 from the private sector in total sponsor and vendor dollars providing a dollar for dollar match of the fund being requested.

The events have become increasingly popular and have developed a following. The increased attendance at events has sparked a need for added attractions at every event. The added attractions and attendance translate to needing additional staff (paid and volunteers) on hand to safely and appropriately manage each event.

Additional Information

The Downtown is an important community asset. The businesses located Downtown generate sales and property tax revenue for the Town. Additionally, they distinguish Castle Rock as a free-standing community with a historic tradition. Downtown also provides a venue for events that contribute to the attraction of living in Castle Rock for all residents. The Downtown events help unify Castle Rock and increase residents' sense of community.

For twelve years, the Downtown Merchants Association has produced and promoted a tremendously popular outdoor event series. The series offered in 2016 (current year) includes two Starlight Summer Movies, Classic Rock Cruise In Concert and Street Party, Classic Rock Cruise In Car Show, 4 Splash in the Park events, Slide the City, Boots and Brews, Date Night Movie, Concert and Street Party, Oktoberfest, and Trick or Treat Street.

The event offerings for 2017 will change due to the Festival Park renovation. The DMA staff, however, is prepared to be creative and continue on with the standard events the community has come to know and love (Starlight Movies, Car Show, Oktoberfest and Concerts). Splash in the Park will not be an option for the 2017 because there is not another appropriate venue available in the Downtown district to host this event safely.

The Downtown Merchants Association strives to develop free family friendly events that attract a diverse range of residents and visitors. The cost to produce these events continues to rise and the Downtown Merchants Association continues to maintain a strict budget which is scalable for each event based upon sponsor and vendor interest. The DMA model for producing events continues to evolve based upon current economic conditions, staff/sponsor/vendor/volunteer appetite and Town funding. The Downtown Merchants Association has historically relied on volunteer support for assistance during events but the months and weeks leading up to the event are administratively intensive. As volunteer support wanes, the need for administrative or paid support at the events has increased.

In addition to the Town's important funding, the Downtown Merchants Association relies on private-sector cash and in-kind sponsorships, as well as the income generated from sales at some of the events. The success of these events relies strongly on the Town's financial participation to produce quality, family-friendly events for the community. The Downtown Merchants Association also strongly depends on the in-kind support the Town provides, such as public safety personnel and street closures. The events for 2017 are anticipated to bring more than 30,000 people into Downtown Castle Rock.

The Downtown Merchants Association is tremendously appreciative of the Town's funding and organizational support. Thank you for your consideration.

Sincerely,



Kevin Tilson
Director
Castle Rock Downtown Alliance

**2017 SERVICE ORGANIZATION
FUNDING APPLICATION**

ORGANIZATION REQUESTING FUNDING:

Castle Rock Downtown Merchants Association

I. 2017 FUNDING REQUEST *(Please use this form for this information and not another format.)*

Breakdown of funds *(What would monies from the Town specifically be used for?)*

<u>Movie 1</u>	<u>\$3,500</u>
<u>Movie 2</u>	<u>\$3,500</u>
<u>Movie 3</u>	<u>\$3,500</u>
<u>Movie 4</u>	<u>\$3,500</u>
<u>Car Show Concert (Concert 1)</u>	<u>\$5,000</u>
<u>Car Show</u>	<u>\$6,000</u>
<u>Concert 2</u>	<u>\$5,000</u>
<u>Concert 3</u>	<u>\$5,000</u>
<u>Concert 4</u>	<u>\$5,000</u>
<u>Oktoberfest</u>	<u>\$6,000</u>
<u>Trick or Treat Street</u>	<u>\$1,000</u>
<u>Staff</u>	<u>\$28,000</u>
 TOTAL FUNDING REQUEST	 <u>\$75,000</u>

II. 2017 PROJECTED ORGANIZATION BUDGET

(Please use this form for this information and not another format.)

2017 projected organizational budget

(Including funding from the Town) \$231,870

Projected sources of revenue

<u>Sponsorships and Vendors</u>	<u>\$75,000</u>
<u>In Kind</u>	<u>\$25,000</u>
<u>Beverage Sales</u>	<u>\$56,870</u>
<u>Town of Castle Rock</u>	<u>\$75,000</u>

TOTAL PROJECTED REVENUE \$231,870

Projected expenditures

(By major budget category)

<u>Movie Series (4 movies)</u>	<u>\$21,600</u>
<u>Car Show & Car Show Concert</u>	<u>\$17,000</u>
<u>Oktoberfest</u>	<u>\$36,848</u>
<u>Concert Series (4 concerts)</u>	<u>\$40,000</u>
<u>Trick or Treat Street</u>	<u>\$4,550</u>
<u>Community Marketing</u>	<u>\$6,500</u>
<u>In Kind Sponsor Benefits</u>	<u>\$30,000</u>

<u>DMA – EDC Contract</u>	<u>\$55,872</u>
<u>Contract Labor</u>	<u>\$7,500</u>
<u>Insurance – Event, D&O</u>	<u>\$8,000</u>
<u>Bookkeeping, legal, supplies</u>	<u>\$4,000</u>
 TOTAL PROJECTED EXPENDITURES	 <u>\$231,870</u>

III. 2017 PROPOSED PERFORMANCE OBJECTIVES

*Please propose up to eight measurable performance objectives that your organization will strive to accomplish **in direct relationship to any funding and contract awarded by the Town.***

In accordance with the contracts, organizations will be required to track and report on attainment of the objectives at the middle and end of the contract term. (Not quarterly, as previously required.)

1. In 2016 (current year), the Downtown Merchants Association is producing the Summer Event Series free to the public which includes: 2 Starlight Movies, Classic Rock Cruise In Car Show Concert & Street Party, Classic Rock Cruise In Car Show, Slide the City, 4 Splash in the Park events, Boots & Brews, Concert and Street Party, Date Night Movie, Oktoberfest and, in partnership with the Town of Castle Rock, Trick or Treat Street. This line up was based on a strategic approach to planning and executing events, evaluating the results of prior events and weighing them against events that are in popular demand with the Castle Rock community.

For 2017, the event offerings for will change due to the Festival Park renovation. The DMA staff, however, is prepared to be creative and continue on with the standard events the community has come to know and love, which include 4 Starlight Movies, Car Show Concert, Car Show, Oktoberfest and 3 Concerts, in addition to partnering with the Town to produce Trick or Treat Street. Splash in the Park will not be an option for the 2017 because there is not another appropriate venue available in the Downtown district to host this event safely. The projected attendance is approximately 30,000 visitors.

2. The DMA also serves as a partner with the Town of Castle Rock, Chamber of Commerce and Douglas County to produce and mail a direct mail piece that goes out two times per year to over 20,000 households.
3. The DMA is the voice of the Downtown business community and its communication network helps facilitate and support the work of the Town and Downtown Development Authority. To date, in 2016, two Stakeholders Public Meetings have been conducted. Invitations to this meeting are extended to the Town, EDC, Chamber and Downtown business community.
4. The DMA's mission is to strengthen the Downtown business community. A stronger Downtown business community translates to increased sales tax and more local jobs. Currently, membership is free. The goal for 2017 is to continue to add new members.
5. The DMA events provide a strong marketing platform for the Town and all Downtown businesses. The events bring a large number of folks from Castle Rock, as well as regionally, into Downtown to get a glimpse of the many shops, restaurants and services offered. The events help to foster a sense of place and community for the Town which contributes significantly to the attraction of living in the Town of Castle Rock. The DMA plans to continue to

encourage Downtown businesses to participate in the array of events and activities in the Downtown district. Their participation not only enhances the events, but also allows the business owner to capitalize on a crowd that is attending the event in front of their Downtown storefront.

IV. SUPPLEMENTAL INFORMATION

- a) *Provide a cover letter no longer than three pages that includes:*
 - a. ***A summary of how the requested funding would be leveraged with other dollars and volunteer resources to maximize the return on the Town's requested investment (What does your organization expect to generate using monies the Town might give?)***
 - b. *The name of and contact information for the person within the organization responsible for administration of the requested contract*
 - c. *If applicable, the amount of additional funds requested this year, and an explanation for the request*
 - d. *Any further discussion about the application as deemed necessary by the requesting organization*
- b) *Provide a list of the board of directors of the organization*

Downtown Merchants Association Board Members

Jason Gray, President

John Manka, Vice President

Nicole Sanders, Treasurer

Denise Fuller

Nick Lucey

Steve Spencer

Kathy Church

Mark Heath, Town Council Liaison

Renee Valentine, Town Council Liaison

Staff and Additional Support

Kevin Tilson, Director, Castle Rock Downtown Alliance

Angie Vencill, Assistant Director, Castle Rock Downtown Alliance

Terri Goudy, Event Coordinator, Castle Rock Downtown Alliance

Frank Gray, President and CEO, Castle Rock EDC

Marcus Notheisen, Vice President, Castle Rock EDC

Karah Reygers, Project Manager, Castle Rock EDC and Downtown Alliance

Birgit Braehler, Office Manager, Castle Rock EDC and Downtown Alliance