

AGREEMENT

This agreement made and entered into as of the 1st day of January, 2015, by and between:

The **TOWN OF NORTH ELBA**, as the trustee of the TOWN OF NORTH ELBA PUBLIC PARKS AND PLAYGROUNDS DISTRICT, a municipal corporation having its office at 2693 Main Street, Lake Placid, New York, hereinafter referred to as "District",

and

The **LAKE PLACID CHAMBER OF COMMERCE, INC.**, a non-for-profit corporation with offices at 2608 Main Street, Lake Placid, New York, and hereinafter referred to as "Chamber".

WISNESSETH

WHEREAS, pursuant to Chapter 477 of the laws of 1928 of the State of New York, as amended, District has the authority to contract for the securing of promotional services with others so as to assist District in providing publicity of District's facilities for the benefit of the District; and

WHEREAS, Chamber operates so as to provide promotional services for the interests of the communities of the Village of Lake Placid and the Town of North Elba and is desirous of entering into an Agreement with District to provide the services desired by District related thereto; and

WHEREAS, Chamber has the staff and experience to perform such unique and professional services for District; and

WHEREAS, District has budgeted and authorized the expenditure of the sum of fifty thousand dollars (\$50,000) from its 2015 funds for the promotional services to be provided by the Chamber;

NOW, THEREFORE in consideration of the promises, terms, and conditions herein contained, it is agreed:

- 1) District hereby engages Chamber as an independent contractor and Chamber agrees to provide services for District consisting of promotion of the Town of North Elba Public Parks and Playgrounds District and its facilities and attributes through advertising, phone calls, mailings, and other types of contracts and endeavors, including the solicitation of group and convention business in and/or nearby the area of the District.

- 2) For the promotional services to be performed by the Chamber for District for the calendar year January 1, 2015 through December 31, 2015, District will pay the following sums on the following payment schedule:

<u>Date</u>	<u>Amount</u>
September 9, 2015	\$50,000

Said payments shall be made to Chamber on or before the date due, and following receipt by District of required vouchers executed by an officer of Chamber completed pursuant to the financial policies and procedures of District with all required to comply with auditing procedures of District with all required certifications attached thereto as District requires to comply with the auditing procedures of District, which payments Chamber agrees to accept as full and complete payment for all the services to performed by Chambers pursuant to this agreement.

Said payments shall be utilized by the Chamber for the payment of, among other expenses, travel expenses, telephone expenses, radio, television, newspaper and magazine advertisements, and other operating expenses incurred for the services provided by Chamber to District pursuant to this Agreement.

During the term of this Agreement, Chamber shall have the right to use that portion of the Convention Center of the Olympic Arena currently occupied by the Lake Placid Chamber of Commerce, and the use, in common with others, the parking spaces adjacent thereto. Chamber shall be solely responsible for any and all cleaning, maintenance, and upkeep of said areas at Chamber's sole expense.

- 3) All staff and personnel hired or employed by Chamber shall be employees of the Chamber and not of District. Said employees shall be solely and exclusively under the control and direction of Chamber. Chamber agrees that at its own cost and expense it will procure and keep in full force and effect policies for Worker's Compensation for all such employees of Chamber, and that Chamber shall fully comply with all provisions of the Labor Law and Worker's Compensation laws of the State of New York applicable to it and its employees at all times during the term of this Agreement.
- 4) At and upon the execution of this Agreement by the parties hereto, any and all prior agreements by and between the parties hereto, written or oral, shall terminate and shall be of no further force and effect. This Agreement may not be modified or amended except by an instrument in writing signed by all parties hereto.
- 5) The parties hereto are acting as independent contractors. This Agreement is not intended to create, nor shall it be construed as creating a joint venture or partnership.

- 6) Regardless of the amount of insurance coverage required by paragraph 7 of this Agreement, Chamber shall indemnify, defend and hold harmless The Town of North Elba Public Parks and Playgrounds District, its officers, employees, agents, and servants from and against any and all claims, suits, losses, damages, expenses, causes of action, demands, costs or judgements or whatever nature against them, individually or collectively, arising from or in connection with the promotional services rendered by Chamber pursuant to this Agreement, or the use of any of the premises to be utilized by Chamber pursuant to this Agreement, including but not limited to, all claims for bodily injuries, including death, or property damage suffered by any person, firm or corporation as a result of negligence, strict product liability or breach of contract by Chambers, and made against District, including all claims or causes of action seeking indemnification or contribution and/or apportionment or responsibility under the laws of the State of New York, unless such claims, causes of action, demands, costs or judgements arise from affirmative acts of negligence of District, its officer, employees, agents, and servants in any activity that may be undertaken by District under provisions of the Agreement. It is understood that this Agreement of complete indemnity is intended by the parties to require Chamber to perform all necessary and appropriate acts in its promotional services under this Agreement that will prevent any financial exposure or liability to District, and to protect District against any financial exposure or monetary loss of any kind or nature.
- 7) Chamber agrees to procure and maintain at its sole cost and expense public liability insurance in an amount of at least \$1,000,000 for personal injury, bodily injury and/or death or defamation claims of any kind or nature, and \$500,000 for property damage, and said insurance to name District, its officer, agents and employees as insureds and to provide this insurance coverage and protection for District for all activities, conduct, and actions of Chamber performed by Chamber in accordance with this Agreement. Said insurance policy or a copy thereof shall be delivered to District for safekeeping. Chamber agrees to obtain a written obligation from the insurer that the insurer will not cancel or change the insurance coverage's without first giving District ten (10) days prior written notice. Said insurance policy shall be issued by reputable companies licensed to do business in the State of New York. It is further expressly agreed that said insurance coverage shall not be construed or interpreted as the extent of Chamber's obligation or financial commitment to indemnify and save District harmless, which said obligation shall be for all monetary amounts, if any, in excess thereof. The obligations of Chamber herein shall be confirmed by contractual liability endorsement evidencing and referencing this Agreement, a copy of which shall be provided to District no later than January 1, 2015.

8) Chamber agrees that its expenditures and disbursements of fees paid to Chamber by District shall only be made for the purposes set forth in paragraph 1 hereof. Chamber further agrees to provide District with a copy of any and all audits secured by Chamber during the term of this Agreement. District shall have the right to audit all of the records of Chamber relating to expenditures of funds provided by this Agreement at any time, upon reasonable advance notice to the Chamber. Chamber agrees to secure and maintain documentation substantiating expenditures of the funds provided herein consistent with the auditing practices and procedures utilized by District during the time of this Agreement. All such documentation shall be made available to District, or its designated representative, at any time during the term of this Agreement.

9) Chamber agrees to provide, semi-annually, an income and expenditure report and a monthly oral performance report to District during each month of this Agreement, said reports to be submitted to District at its scheduled monthly regular "work session" meeting. This monthly oral report will be in the nature of a narrative of the progress of all promotional programs to date, and an outline of all promotional program objectives for the future.

In addition, Chamber agree to submit an annual written report to District no later than November 15, 2016, setting forth a narrative statement of Chamber's evaluation of its performance of its promotional services for District pursuant to this Agreement, said report to include a reasonable estimate of the financial impact of Chamber's performance and benefits derived by District and its citizens. Selected copies of advertisements and literature evidencing the promotional work product of the Chamber over the preceding months shall be submitted.

10) District hereby designates the Supervisor of the Town of North Elba as its representative for all matters dealing with the performance by Chamber of this Agreement. Chamber hereby designates its President as its representative for all matters dealing with the performance by Chamber of this Agreement. All correspondence or notices required to be exchanged between the parties as provided above.

11) Chamber agrees that it shall not assign, transfer, convey, or otherwise dispose of any rights, interests, or contractual obligations of Chamber to District provided for in this Agreement without the express prior written consent of District. This provision shall not be construed to prevent Chamber from delegating certain promotional functions to third party subcontractors; provided, however, that Chamber shall be solely responsible for the payment thereof, and for the satisfactory performances thereof.

12) Chamber acknowledges that it is aware and familiar with the provisions of General Municipal Law 801, 803, and 805-A and of the January 1995 Code of Ethics of the Town of North Elba. Chamber agrees that at no time during the term of this Agreement shall it knowingly permit or allow performance of its services for District under this Agreement to involve and violation of said statutory provisions or of the Code of Ethics. Additionally, Chamber agrees to fully comply with all other general and special laws and regulations of the State of New York applicable to the services to be performed by Chamber under this Agreement.

13) This Agreement may be terminated at any time by the mutual written consent of these parties hereto.

14) This Agreement shall be construed in accordance with the law of the State of New York. This Agreement contains the entire understanding of the parties and there are no representations, warranties, covenants, or undertakings, other than those expressly set forth herein.

15) This Agreement is binding upon the parties and upon their representative successors and permitted assigns.

IN WITNESS WHEREOF, the parties have caused their duly authorized officers to sign and execute this Agreement and affix their respective seals hereto on the day and date indicated.

TOWN OF NORTH ELBA PUBLIS PARKS AND PLAYGROUND DISTRICT

By: Robert Pol
(Supervisor, Town of North Elba)

Date: 10/13/15

LAKE PLACID CHAMBER OF COMMERCE

By: [Signature]
(President)

Date: 9-10-15