

RESOLUTION NO. 1188

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING AN AGREEMENT WITH THE COHN
MARKETING GROUP**

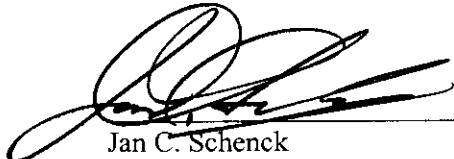
WHEREAS, the City of Golden Economic Development Commission has been charged with the planning and execution of a community marketing plan; and

WHEREAS, the City of Golden Economic Development Commission has solicited proposals from qualified independent contractors to coordinate the implementation of the community-marketing plan.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

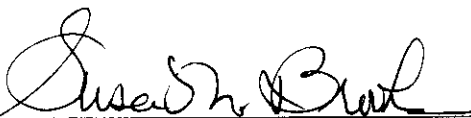
Section 1. The Agreement with the Cohn Marketing Group is approved substantially in the form attached hereto as Exhibit A. The City Manager is authorized to execute the agreement on behalf of the City, upon final approval of the form of the agreement by the city Attorney.

Adopted the 1st day of March, 2001.



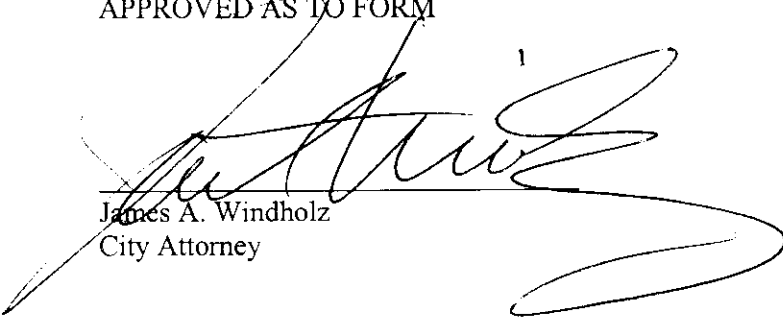
Jan C. Schenck
Mayor

ATTEST:



Susan M. Brooks, CMC/AAE
City Clerk

APPROVED AS TO FORM

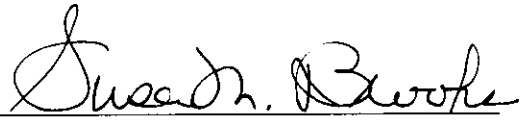


James A. Windholz
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a special meeting thereof held on the 1st day of March, A.D., 2001.

(SEAL)

ATTEST:


Susan M. Brooks, City Clerk of the City of
Golden, Colorado

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICE

THIS AGREEMENT is made and entered into this ____ day of _____, 2001, by and between the CITY OF GOLDEN (hereinafter referred to as "GOLDEN") and the Cohn Marketing Group (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, GOLDEN requires professional consulting services in connection with implementation of a community marketing plan); and

WHEREAS, CONSULTANT has held itself out to GOLDEN as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, for and in consideration of the promises and covenants herein appearing, the parties agree as follows:

I. SCOPE OF SERVICES.

The specific scope of services is described in the attached Exhibit A

II. GOLDEN OBLIGATIONS/CONFIDENTIALITY.

GOLDEN shall provide CONSULTANT with information, reports and such other data as may be available to GOLDEN and reasonably required by CONSULTANT to perform hereunder. No Project information shall be disclosed by CONSULTANT to third parties without prior written consent of GOLDEN or pursuant to a lawful court order directing such disclosure. All documents provided by GOLDEN to CONSULTANT shall be returned to GOLDEN. CONSULTANT is authorized by GOLDEN to retain copies of such data and materials at CONSULTANT's expense.

III. OWNERSHIP OF WORK PRODUCT.

Upon payment to CONSULTANT pursuant to this Agreement, all work, data, drawings, designs, plans, reports, computer programs (nonproprietary), computer input and output, television, video and radio product, analyses, tests, maps, surveys, or any other materials developed for this Project, are and shall be the sole and exclusive property of GOLDEN. However, any reuse of the documents by GOLDEN without prior written authorization by CONSULTANT other than for the specific intended purpose of this Agreement will be at GOLDEN's sole risk. The CONSULTANT will provide GOLDEN with a ten (10) day written notice prior to disposal of Project documents it has retained during which time GOLDEN may take physical possession of same at the storage site.

IV. COMPENSATION.

In consideration for the completion of the services specified herein by CONSULTANT, GOLDEN shall pay CONSULTANT a monthly fee as detailed in the fee schedule in Exhibit A. Detailed monthly invoices shall be rendered by CONSULTANT, and shall be due and payable thirty (30) days after date of receipt. The maximum fee specified herein shall include all fees and expenses incurred by CONSULTANT in performing all services hereunder. GOLDEN reserves the right to withhold final payment until such time as the work is complete.

V. COMMENCEMENT OF WORK.

Within seven (7) days of receipt from GOLDEN of a Notice to Proceed, CONSULTANT shall commence work on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice.

VI. CHANGES IN SCOPE OF SERVICES.

A change in the Scope of Services shall constitute any change or amendment of services or work which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City Manager or (his)(her) designee of GOLDEN. If CONSULTANT proceeds without such written authorization, then CONSULTANT shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee or representative of GOLDEN shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY.

CONSULTANT hereby warrants that he/she is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

The work performed by CONSULTANT shall be timely performed in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

VIII. COMPLIANCE WITH LAW.

The work and services to be performed by CONSULTANT hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

IX. INDEMNIFICATION.

The CONSULTANT agrees to indemnify and hold harmless GOLDEN, and its officers and its employees, from and against all liability, claims demands, and expenses, including court costs and reasonable attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the work to be performed under this Agreement, if such injury, loss, or damage is caused by, or is claimed to be caused by, the negligent act or omission, error, professional error, mistake, accident, or other fault of the CONSULTANT, any Subcontractor of the CONSULTANT, or any officer, employee, or agent of the CONSULTANT. The obligations of this Section IX shall not apply to damages which GOLDEN shall become liable by final judgment to pay to a third party as a result of the negligent act or omission, error, professional error, mistake, accident, or other fault of the City of Golden.

X. INSURANCE.

A. The CONSULTANT agrees to procure and maintain in force during the term of this Agreement, at her own cost, the following coverages:

1. Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers' Liability Insurance.

2. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for any one occurrence, with respect to each of the CONSULTANT's owned, hired or non-owned vehicles assigned to or used in performance of the services. In the event that the CONSULTANT's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of the CONSULTANT who utilizes an automobile in providing services to GOLDEN under this Agreement.

B. If approved by GOLDEN, evidence of qualified self-insured status may be substituted for one or more of the foregoing insurance coverages.

C. CONSULTANT shall procure and maintain, and shall cause any Subcontractor of the CONSULTANT to procure and maintain, the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to GOLDEN. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the CONSULTANT pursuant to Section IX of this Agreement. In the case

of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

D. A Certificate of Insurance shall be completed by the CONSULTANT's insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by GOLDEN prior to commencement of any services under this Agreement. The Certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to G. The completed Certificate of Insurance shall be sent to:

City of Golden
911 10th Street
Golden, CO 80401
Attn: Risk Management

E. Failure on the part of the CONSULTANT to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which GOLDEN may immediately terminate this Agreement, or at its discretion G may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by GOLDEN shall be repaid by the CONSULTANT to GOLDEN upon demand, or GOLDEN may offset the cost of the premiums against any monies due to CONSULTANT from GOLDEN.

F. GOLDEN shall have the right to request and receive a certified copy of any policy and any endorsement thereto.

G. The parties hereto understand and agree that GOLDEN, its officer, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to GOLDEN, its officers, or its employees.

XI. NON-ASSIGNABILITY.

Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

XII. TERM/TERMINATION.

The initial term of this Agreement shall end on December 31, 2001. Subject to annual appropriations by the Golden City Council, the City Manager may, prior to the end of each respective calendar year, extend the term for successive one year terms on a calendar-year basis.

The foregoing notwithstanding, GOLDEN may, in its sole discretion, terminate this Agreement at any time upon providing CONSULTANT with fourteen (14) days advance written notice. In the event the Agreement is terminated by GOLDEN's issuance of said written notice of intent to terminate, GOLDEN shall pay CONSULTANT for all work previously authorized, completed, and delivered prior to the date of termination. If, however, CONSULTANT has substantially or materially breached the standards and terms of this Agreement, GOLDEN shall have any remedy or right of set-off available at law and equity.

XIII. DEFAULT/ATTORNEY FEES.

In the event of default of any of the provisions herein, the defaulting party shall be liable to the non-defaulting party for all reasonable attorney fees, legal expenses and costs incurred as a result of the default.

XIV. VENUE.

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Jefferson, State of Colorado.

XV. INDEPENDENT CONTRACTOR.

CONSULTANT is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by CONSULTANT to perform work under the terms of this Agreement shall be, and remain at all times, employees or agent of CONSULTANT for all purposes. CONSULTANT shall make no representation that she is the employee of GOLDEN for any purposes.

XVI. NO WAIVER.

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by GOLDEN shall not constitute a waive of any of the other terms or obligations of this Agreement.

XVII. ENTIRE AGREEMENT.

This Agreement and the attached Exhibits are the entire Agreement between CONSULTANT and GOLDEN, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

XVIII. NOTICE.

Any notice or communication between CONSULTANT and GOLDEN which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

City of Golden
911 10th Street
Golden, CO 80401
Attn: City Manager

City of Golden

City Manager

ATTEST:

Susan M. Brooks, Secretary

Cohn Marketing Group

By: _____
Title: _____

EXHIBIT A

COHN MARKETING GROUP, LLC
300 SOUTH JACKSON ST. SUITE 100
DENVER, CO 80209
303-780-7377
Jeff@Cohnmarketing.com

Part One: 2001 Scope of Work

- Execution and implementation of the Golden marketing plan with enhancements focusing on identification of target markets, annual marketing objectives, key strategies and tactics. Implementation of this plan will be divided into flighted or seasonal programs which build upon themselves and peak at the holiday season.
Currently, we understand key target markets to include:
 1. Golden residents (keep the dollars at home)
 2. Stakeholders (vendors who supply marketing funds, cultural attractions, other related business sectors, as well as city officials and economic development board members)
 3. Visitors to the Front Range staying with friends/family or in overnight hotels as well as those travel industry professionals that impact the visitors' itinerary such as concierge and tour personnel.
 4. Denver metro area residents who come to Golden for daytrips and periodic "experiential" visitation.
 5. Coors tour attendees
 6. Travel writers and Denver regional media
- Management of marketing functions over the course of the year including program oversight, staff implementation, public relations programming, stakeholder/merchant relations and program communications.
- Execution of a plan for third party and media sponsorship of Golden marketing programming and dealmaking with targeted sponsors.
- Development and execution of all creative and media elements to support overall or individual seasonal campaigns.
- Produce educational seminars to assist vendors to increase sales from their business and maximize sales opportunities from traffic in the city (conversion from lookers to buyers).
- Management of resources needed to execute the marketing plan inclusive of public relations specialist, tour and travel specialist, sponsorship deal maker(s), research resources, creative director, etc.
- Ongoing client communications and attendance at key city meetings by agency leadership. Stakeholder communications by account executive and other agency team members.
- Execution of other economic development or city marketing needs as they are required, outside of current program budget.
- Ongoing reporting of program execution. Guidelines: bi weekly status report provided to Economic Development Commission (approx. 1-2 pages as required) detailing updates on specific program development and results.

Part Two: Compensation Summary for Cohn Marketing Group, LLC

Agency fee (balance of 2001)	\$4,900 per month, billed monthly
Creative projects	Creative and production costs estimated per project based, on project scope. Each project will have a separate letter agreement between consultant and City.
Sponsorship Development	<p>35% of the cash value of any cash deals generated on behalf of client to be paid from sponsorship proceeds. Each sponsorship project to include a separate letter agreement among sponsor, consultant, and city.</p> <p>If or when a breakpoint of \$80,000 in cash sponsorships is reached during the year, each additional deal will be compensated at 40% as an incentive bonus to CMG.</p>
Miscellaneous	Client approved presentations, travel, entertainment expenses billed at cost.
Media planning	Assumed in agency fee
Media buying	15% commission on all media placements. Media placements will be separately approved by the City. Media will be directed to send invoices at "net rates" to City of Golden and will then be reviewed for accuracy by CMG as part of this fee. CMG will issue an invoice for 15% of all media expenditures on a monthly basis.
Other	Out of pocket expenses, pre-approved travel, postage, shipping, and other out of pocket expenses billed at cost on a monthly basis and not to exceed \$250.00 monthly (excluding travel)