

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this 6<sup>th</sup> day of December 2006 by and between Department of Tourism & State Development, a state agency, of 711 E Wells Ave, Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the Work Plan, attached hereto as Exhibit A and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on Dec. 1, 2006 and end on November 30, 2007, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is [REDACTED].

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$4,195,725.00. The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

\$465,725 due Dec. 15, 2006

\$530,000 due Jan. 15, 2007

\$225,000 due Feb. 15, 2007

\$1,275,000 due March 15, 2007

\$750,000 due April 15, 2007

\$350,000 due May 15, 2007

\$200,000 due June 15, 2007

\$250,000 due July 15, 2007

Final payment not to exceed \$150,000 due upon receipt of invoice.

The Consultant agrees to provide monthly summaries, ad tearsheets and affidavits to State listing specific services and media purchases and associated fees for that time period. Summaries are due to the State no later than the 12<sup>th</sup> business day following the last calendar day of the previous month.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that

Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Billie Jo Waara on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

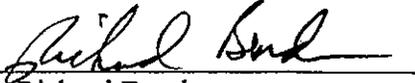
16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

BY:

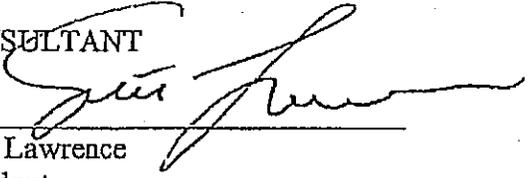
  
Richard Benda  
Department Secretary

DATE:

12-12-06

CONSULTANT

BY:

  
Scott Lawrence  
President

DATE:

12/6/06

- State Agency Coding (MSA Center): 0420
- State Agency MSA Company for which contract will be paid: 3006
- Object/subobject MSA account to which voucher will be coded: 52041100.
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Billie Jo Waara, (605) 773-3301.

**Exhibit A  
Work Plan**

1. The Consultant will produce and purchase the following items on behalf of the State as part of the **2006-07 Winter Campaign** being conducted by the Office of Tourism:
  - 1A. Newspaper display and insert advertising, cable television advertising and radio advertising** in media markets specified by the State during January to early-March to include media negotiation and purchase; writing, design, production, voicing and post-production of ads; acquisition of stock footage, music and sound effects; approval coordination and shipment of display ads, newspaper inserts, television ads and radio ads.
  - 1B. E-mail and direct marketing campaign** to snow enthusiasts in identified target markets. Services will include production of e-mails to include writing, designing and shipping to service provider, as necessary.
  - 1C. 2007 Winter Film shoot** to include concepting, script development, shooting, location scouting, film crew coordination, equipment and travel.
  
2. The Consultant will produce and purchase the following items on behalf of the State as part of the **2007 Peak Season Campaign** being conducted by the Office of Tourism:
  - 2A. Newspaper display advertising, display magazine advertising, and cable and network television advertising** in media markets approved by the State from mid-February through July. Services include media negotiation and purchase; writing, design, production, voicing and post-production of ads; acquisition of stock footage, music and sound effects; approval coordination and shipment of display ads, newspaper inserts, television ads, banner ads and targeted e-mails.
  - 2B. Giant Step co-op magazine advertising** in publications approved by the State. Services include media negotiation and purchase; writing and design; approval coordination and shipment of ads.
  - 2C. E-commerce marketing** to include planning, program coordination, writing, design, production, approval coordination and delivery of any Web banner ads, e-mails, and/or keyword advertising promotional tools directed at specified target audiences.
  - 2D. Ethanol Promotion** to include planning, program coordination and execution of ethanol-themed campaign directed at target audience.

For all elements, 1A through 2D, the Consultant will be responsible for checking media to ensure that media contracts are fulfilled and will request make-goods, discounts or credits as due to the State:

3. The Consultant will provide services to **provide Web site design and development the State's consumer Web site, www.TravelSD.com, and the media industry Web site, www.MediaSD.com.** The Consultant agrees to test projects for compatibility in the agreed upon browsers and platforms. The Consultant shall communicate any known problems with compatibility to the State. The Consultant warrants that the project will be built to the agreed-upon specifications and the projects and services provided will be free from defects in workmanship. The Consultant agrees to grant to State and State accepts the unlimited, unrestricted and non-exclusive rights and licenses to the products and services associated with the project, and, to the extent permitted, to any third party software, on the terms contained in the third party software licenses, which are either incorporated in or deemed necessary for the use of the project and services. Consultant agrees that all materials and content provided to Consultant by State will remain the property of the State.

4. The Consultant will provide services to develop, direct and implement a visitor industry campaign.
5. The Consultant will provide public relations assistance to include consulting, media blitz orchestration, national media outreach, story development, industry communications and content development directed at specified target audiences.
6. The Consultant will provide services to coordinate and direct qualitative and quantitative consumer research in markets approved by the State.

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this 26th day of June 2007 by and between Department of Tourism & State Development, a state agency, of 711 E Wells Ave, Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the Work Plan, attached hereto as Exhibit A and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on July 1, 2007 and end on January 31, 2008, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is [REDACTED].

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$2,018,500.00. The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

\$400,000 due July 20, 2007

\$850,000 due August 20, 2007

\$300,000 due September 20, 2007

\$250,000 due October 20, 2007

\$150,000 due November 20, 2007

Final payment not to exceed \$68,500 due upon receipt of invoice.

The Consultant agrees to provide monthly summaries, ad tearsheets and affidavits to State listing specific services and media purchases and associated fees for that time period. Summaries are due to the State no later than the 12<sup>th</sup> business day following the last calendar day of the previous month.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section

does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law.

Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Leah Mohr on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

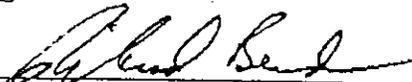
16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

BY:

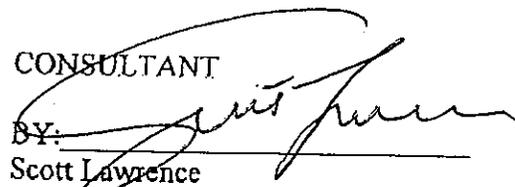
  
Richard Benda  
Department Secretary

DATE:

6-30-07

CONSULTANT

BY:

  
Scott Lawrence  
President

DATE:

7/15/07

- State Agency Coding (MSA Center): 0420014 – Shoulder Season
- State Agency MSA Company for which contract will be paid: 3006
- Object/subobject MSA account to which voucher will be coded: 52041100
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Billie Jo Waura, (605) 773-3301.

**Exhibit A  
Work Plan**

1. The Consultant will produce and purchase the following items on behalf of the State as part of the 2007 Shoulder Season Campaign being conducted by the Office of Tourism:

**1A. Newspaper display and insert advertising, cable television advertising, and radio advertising** in Wisconsin, Wyoming, Colorado, Minnesota, Nebraska, Iowa, and Sioux Falls, S.D. from early-August through early-November. Services to include media negotiation and purchase; writing, design, production, voicing and post-production of ads; acquisition of stock footage, music and sound effects; approval coordination and shipment of display ads, newspaper inserts, television ads and radio ads.

**1B. Great Getaway co-op newspaper advertising** including the creation and production of a magazine-style marketing piece for insertion into newspapers in Iowa, Nebraska, Minnesota and South Dakota. Services include media negotiation and purchase; writing and design; approval coordination and shipment of ads.

**1C. Giant Step co-op magazine advertising** in the August/September/October 2007 issues of Family Circle, Family Fun, Ladies Home Journal, Midwest Living, Wondertime, Arthur Frommer's Budget Travel, Cabin Life, Travel + Leisure Family, Travel 50 + Beyond, Field & Stream, and Outdoor Life. Services include media negotiation and purchase; writing and design; approval coordination and shipment of ads.

**1C. Outdoor marketing campaign** to outdoor enthusiasts in identified target markets through a direct mail series and program sponsorships. Services will include negotiation and purchase of opt-in mailing lists, production of advertisements to include writing, designing and shipping to service provider, as necessary.

**1D. Research** to include the consulting, development, completion and analysis of 1500 statewide intercept surveys that capture real visitor data throughout the visitor season. Services also include consulting, negotiation, development, reporting and analysis of a visitor relationship database management system. The system will enhance abilities to track visitors and gauge the return on investment of media dollars.

**1E. Public relations assistance** to include consulting, media blitz orchestration, national media outreach, story development, industry communications and content development directed at specified target audiences.

**1G. Internet Marketing and Internet Campaign Development** services to include planning, program coordination and execution of advertising efforts for greater consumer usability, search engine optimization. The Consultant will maintain and provide access to the appropriate e-mail survey software and e-mail segmentation and transmission software. The Consultant will also maintain the appropriate software to track the State's web marketing campaign results.

**1E. Direct Mail** to consumers in identified target markets to include design and print coordination of mailer; purchasing or securing mailing lists; arranging mail prep and postage.

**1H. 2006 Film shoot** to include concepting, script development, shooting, location scouting, film crew coordination, equipment and travel.

For all elements, 1A through 1H, the Consultant will be responsible for checking media to ensure that media contracts are fulfilled and will request make-goods, discounts or credits as due to the State.

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this first day of July 2007 by and between Department of Tourism & State Development, a state agency, of 711 E. Wells Ave., Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the attached Statement of Work Plan(s) for the Black Hills Digital Strategy/Million Dollar Challenge cooperative marketing effort, attached hereto as Exhibit A through D and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on July 1, 2007 and end on June 30, 2008, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is [REDACTED].

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$142,600.00 The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

\$17,500 due July 15, 2007  
\$25,650 due August 1, 2007  
\$33,150 due Oct. 15, 2007  
\$33,150 due Jan. 15, 2008  
\$33,150 due May 15, 2008

The Consultant agrees to provide monthly summaries, ad tearsheets and affidavits to State listing specific services and media purchases and associated fees for that time period. Summaries are due to the State no later than the 12<sup>th</sup> business day following the last calendar day of the previous month.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section

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6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

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8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

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11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Billie Jo Waara on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

CONSULTANT

BY:   
Richard Benda  
Department Secretary

BY: see attached  
Scott Lawrence  
President

DATE: 8-9-07

DATE: \_\_\_\_\_

- State Agency Coding (MSA Center): 0420-0016
- State Agency MSA Company for which contract will be paid: <sup>1000</sup> ~~3005~~
- Object/subobject MSA account to which voucher will be coded: 52041100
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Billie Jo Waara, (605) 773-3301.

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## Statement of work

### Assumptions

The project management vendor will complete all project management tasks associated with the Black Hills Digital Strategy. Working from the initial program outline developed by SD Tourism, Lawrence & Schiller, Sioux Falls, (Vendor) will further develop the digital strategy breakdown and develop individual statements of work (SOWs) for the following project components:

- **Project Management SOW** for Vendor to manage efforts throughout the project term.
- **Site Logic SOW** - Clearly articulate the services and outcomes for the remainder of the Site Logic consulting contract.
- **Web Analytics SOW** – Draft a SOW for analytics that clearly defines the goals and necessary online reporting needs.
- **Shared Content SOW** - Identify goals and deliverables of the shared content plan.
- **Consumer Insights Research Project SOW** - Define scope and metrics for efforts to consistently monitor online consumer dialog as it relates to the members of this group and provide reports to the group in general and individual partners, as appropriate.
- **Online Travel Blog SOW** – Research, identify goals and metrics of a proposed Black Hills travel blog.
- **Viral PR SOW** - Define goals and metrics for the effort to provide a consistent online voice by posting on appropriate third party travel blogs, online forums and travel journal sites.
- **Keywords SOW** - Based on Site Logic's recommendations, a plan will be developed to launch a new, highly optimized and targeted keyword campaign to begin January 1st.
- **E-mail SOW** - Based on Site Logic's recommendations, identify goals and types of content to make future e-campaigns highly engaging.
- **Banner Ads SOW** - Identify options for management of banner ads across websites that appeal specifically to our target audience(s).
- **Traditional Media / Paid Media SOW** - Identify goals and objectives for paid media.
- **On-Line Reservation Program** - Work with Black Hills Central Reservations to identify goals and technical requirements of the booking engine and research available options to provide a cutting-edge booking experience. Upon a final recommendation for the technical aspects of the system, the group will become engaged to ensure that the needs of all members are met with the new booking system.

Each SOW will involve communication and cooperation with partners as the project components become more fully developed. Following the approval of the SOWs, an appropriate vendor for specific services outlined will need to be selected by the group at that appropriate time which will lead to more accurate costs and timelines.

The project management vendor will manage all project timelines and costs associated with each project component. Vendor will manage all group communication to keep members abreast of progress with each project component.

### Engagement related expenses

All costs associated with the project management effort and within this scope of work will be paid by the vendor and should be included in the cost proposal. Any tasks outside of this scope of work that will encumber additional costs must be approved by the digital strategy group in advance.

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## Assignment of vendor for Statement of Work:

Statement of Work: Project Management

Vendor: Lawrence & Schiller

The terms and conditions of the **Professional Services Agreement** apply in full to the services and products provided under this Statement of Work.

**IN WITNESS WHEREOF**, the parties hereto each acting with proper authority have executed this Statement of Work, under seal.

Black Hills Digital Strategies Group  
Susan Johnson

Full name

Group Chairwoman

Title

Signature

Date

South Dakota Office of Tourism  
Billie Jo Waara

Full name

Director, Office of Tourism/Digital  
Strategy Contract Facilitator

Title

Signature

Date

Lawrence & Schiller  
Scott Lawrence

Full name

CEO, President

Title

Signature

Date

See attached

# Assignment of vendor for Statement of Work:

Statement of Work: Project Management

Vendor: Lawrence & Schiller

The terms and conditions of the **Professional Services Agreement** apply in full to the services and products provided under this Statement of Work.

**IN WITNESS WHEREOF**, the parties hereto each acting with proper authority have executed this Statement of Work, under seal.

Black Hills Digital Strategies Group  
Susan Johnson  
Full name

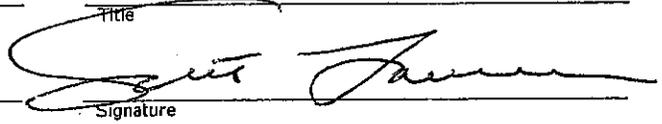
Group Chairwoman  
Title

Signature

Date

Lawrence & Schiller  
Scott Lawrence  
Full name

CEO, President  
Title



Signature

7/20/07  
Date

South Dakota Office of Tourism  
Billie Jo Waara  
Full name

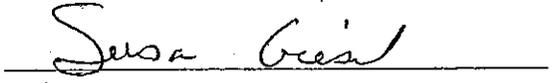
Director, Office of Tourism/Digital  
Strategy Contract Facilitator  
Title

Signature

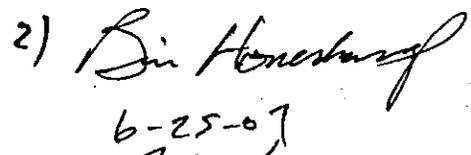
Date

1) Rapid City COB  
Susan Giesel X

Marketing Manager X

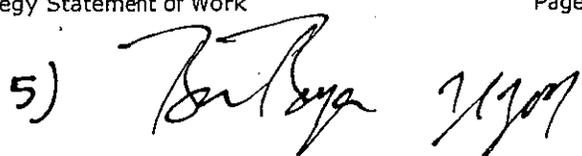


6-25-07

2)   
6-25-07

3)   
6-25-07

4)  6-25-07

5)  7/1/07

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT  
CONSULTING CONTRACT  
ADDENDUM TO FY2008 CONTRACT # \_\_\_\_\_

AGREEMENT Made and entered into this 29<sup>th</sup> day of January, 2008 by and between South Dakota Department of Tourism and State Development/Office of Tourism, a state agency, of 711 E Wells Ave., Pierre, SD 57501-3369, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow Ave., Sioux Falls, SD 57105 (the "Consultant").

Amend Section 1 as follows:

1. The Consultant will provide services as outlined in the attached Statement of Work Plan(s), attached hereto as Exhibit A through ~~D~~ E and by this reference incorporated herein.

Amend Section 4 as follows:

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed ~~\$142,600.00~~ \$527,600.00. The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

\$17,500 due July 15, 2007  
\$25,650 due August 1, 2007  
\$33,150 due Oct. 15, 2007  
\$33,150 due Jan. 15, 2008  
\$200,000 due February 15, 2008  
\$133,150 due May 15, 2008  
\$85,000 due June 15, 2008

Exhibit E. Online Marketing Campaign Statement of Work Attached.

All other sections of this Agreement will remain the same.

STATE

BY: Richard Benda

Richard Benda  
Secretary, Department of Tourism  
and State Development

DATE: 1/29/08

CONSULTANT

BY: Scott Lawrence

Scott Lawrence  
President

DATE: 1/29/08

- State Agency Coding (MSA Center) 0420.
- State Agency MSA Company for which contract will be paid: 1000 (2<sup>nd</sup> Million).
- Object/subobject MSA account to which voucher will be coded: 52041100.
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: ~~Billie Jo Waara~~, (605) 773-3301.

Melissa Bump

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this 30<sup>th</sup> day of November 2007 by and between Department of Tourism & State Development, a state agency, of 711 E Wells Ave, Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the Work Plan, attached hereto as Exhibit A and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on Dec. 1, 2007 and end on November 30, 2008, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is [REDACTED]

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$4,482,365.00. The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

\$550,000 due Dec. 15, 2007  
\$500,000 due Jan. 15, 2008  
\$400,000 due Feb. 15, 2008  
\$1,400,000 due March 15, 2008  
\$800,000 due April 15, 2008  
\$300,000 due May 15, 2008  
\$300,000 due June 15, 2008  
\$100,000 due July 15, 2008  
Final payment not to exceed \$132,365 due upon receipt of invoice.

The Consultant agrees to provide monthly summaries, ad tearsheets and affidavits to State listing specific services and media purchases and associated fees for that time period. Summaries are due to the State no later than the 12<sup>th</sup> business day following the last calendar day of the previous month.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that

Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Billie Jo Waara on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

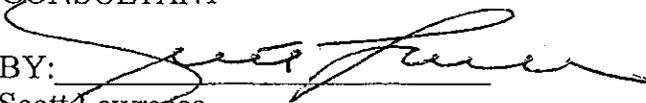
In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

BY:   
Richard Benda  
Department Secretary

DATE: 11-30-07

CONSULTANT

BY:   
Scott Lawrence  
President

DATE: 11/30/07

- State Agency Coding (MSA Center): 0420
- State Agency MSA Company for which contract will be paid: 3006
- Object/subobject MSA account to which voucher will be coded: 52041100
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Melissa Bump, (605) 773-3301.

**Exhibit A  
Work Plan**

1. The Consultant will produce and purchase the following items on behalf of the State as part of the **2007-08 Winter Campaign** being conducted by the Office of Tourism:
  - 1A. Newspaper display and insert advertising, cable television advertising and radio advertising** in media markets specified by the State during January to early-March to include media negotiation and purchase; writing, design, production, voicing and post-production of ads; acquisition of stock footage, music and sound effects; approval coordination and shipment of display ads, newspaper inserts, television ads and radio ads.
  - 1B. E-mail and direct marketing campaign** to snow enthusiasts in identified target markets. Services will include production of e-mails to include writing, designing and shipping to service provider, as necessary.

- ~~X~~ 2. The Consultant will produce and purchase the following items on behalf of the State as part of the **2008 Peak Season Campaign** being conducted by the Office of Tourism:
  - 2A. Newspaper display advertising, display magazine advertising, and cable and network television advertising** in media markets approved by the State from mid-February through July. Services include media negotiation and purchase; writing, design, production, voicing and post-production of ads; acquisition of stock footage, music and sound effects; approval coordination and shipment of display ads, newspaper inserts, television ads, banner ads and targeted e-mails.
  - 2B. Giant Step co-op magazine advertising** in publications approved by the State. Services include media negotiation and purchase; writing and design; approval coordination and shipment of ads.
  - 2C. E-commerce marketing** to include planning, program coordination, writing, design, production, approval coordination and delivery of any Web banner ads, e-mails, and/or keyword advertising promotional tools directed at specified target audiences.

For all elements, 1A through 2C, the Consultant will be responsible for checking media to ensure that media contracts are fulfilled and will request make-goods, discounts or credits as due to the State.

3. The Consultant will provide services to **provide Web site design and development for the State's consumer Web site, www.TravelSD.com**. The Consultant agrees to test projects for compatibility in the agreed upon browsers and platforms. The Consultant shall communicate any known problems with compatibility to the State. The Consultant warrants that the project will be built to the agreed-upon specifications and the projects and services provided will be free from defects in workmanship. The Consultant agrees to grant to State and State accepts the unlimited, unrestricted and non-exclusive rights and licenses to the products and services associated with the project, and, to the extent permitted, to any third party software, on the terms contained in the third party software licenses, which are either incorporated in or deemed necessary for the use of the project and services. Consultant agrees that all materials and content provided to Consultant by State will remain the property of the State.
4. The Consultant will provide services to develop, direct and implement a **visitor industry campaign**.

5. The Consultant will provide public relations assistance to include consulting, media blitz orchestration, national media outreach, story development, industry communications and content development directed at specified target audiences.
6. The Consultant will provide services to coordinate and direct qualitative and quantitative consumer research in markets approved by the State.

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT  
CONSULTING CONTRACT  
ADDENDUM TO FY2008 CONTRACT # \_\_\_\_\_

AGREEMENT Made and entered into this 29<sup>th</sup> day of January, 2008 by and between South Dakota Department of Tourism and State Development/Office of Tourism, a state agency, of 711 E Wells Ave., Pierre, SD 57501-3369, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow Ave., Sioux Falls, SD 57105 (the "Consultant").

Amend Section 4 as follows:

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed ~~\$4,482,365.00~~ \$4,567,365.00. The State will not pay Consultant's expenses as a separate item. Automatic payment will be made by the State pursuant to a signed state voucher according to the following schedule:

- \$550,000 due Dec. 15, 2007
- \$500,000 due Jan. 15, 2008
- \$400,000 due Feb. 15, 2008
- \$1,400,000 due March 15, 2008
- \$800,000 due April 15, 2008
- \$300,000 due May 15, 2008
- \$300,000 due June 15, 2008
- ~~\$100,000~~ \$185,000 due July 15, 2008
- Final payment not to exceed \$132,365 due upon receipt of invoice.

Amend Exhibit A Work Plan to a:  
Section(s)

7. The Consultant will provide services to coordinate and direct the printing and distribution of the Great Getaways newspaper insert in markets approved by the State.

All other sections of this Agreement will remain the same.

STATE

CONSULTANT

BY:   
Richard Benda  
Secretary, Department of Tourism  
and State Development

BY:   
Scott Lawrence  
President

DATE: 1/29/08

DATE: 1/29/08

- State Agency Coding (MSA Center) 0420.
- State Agency MSA Company for which contract will be paid: 3006.
- Object/subobject MSA account to which voucher will be coded: 52041100.
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: ~~Billie Jo Waara~~, (605) 773-3301.

Melissa Bump

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this 19th day of December 2007 by and between Department of Tourism & State Development, a state agency, of 711 E. Wells Ave., Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the attached proposal for the development and production of the described audio CD's for use by the state's interstate information centers, attached hereto as Exhibit A and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on December 19, 2007 and end on June 00, 2008, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$37,500.00. The State will not pay Consultant's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a



general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly

identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Billie Jo Waara on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

08-0400-029

STATE

CONSULTANT

BY:

Richard Benda  
Richard Benda  
Department Secretary

BY:

Scott Lawrence  
Scott Lawrence  
President

DATE:

12-19-07

DATE:

12/20/07

- State Agency Coding (MSA Center): ~~420-40711~~ 0420040711
- State Agency MSA Company for which contract will be paid: 3006
- Object/subobject MSA account to which voucher will be coded: 52040600
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Melissa Bump, (605) 773-3301.



## Budget Estimate

**Description of production:** Production of four, thirty minute audio cd's for rent at the state info centers. This project will include content development, copywriting, audio production, duplication and packaging.

Pre-Production including concepting, script development, revisions, and project management **\$5,800.00**

- Research - \$1,000
- Copy - \$4,000
- Revisions - \$800

Audio Production including voice-over talent, recording studio services, music and sound effects, mixing and editing **\$8,380.89**

- Voice Talent (2 voices per CD) - \$3,380.89
- Audio Production - \$3,000.00
- Music Rights - \$1,000.00
- Revisions, studio sessions - \$1,000.00

CD Jacket and cover **\$2,800.00**

This will include Artwork for the CD, Artwork for the CD case, and booklet with CD and track information

- Copywriting - \$650
- Art Direction - \$1,600
- Revisions - \$550

### Printing and Duplication

4-disc set of audio CDs for South Dakota Tourism. 3000, 4000 and 5000 total finished pieces quoted. Full color print on each disc. Packaged together in 4 pack cases with 2-ring "binder" inside. Hole punched sleeves inside. 5, one for each disc and one for the insert card.

- CD Replication
- Label Pre-Flight/Pre-press
- Cases
- Print Pre-Press -Wrap
- Print - Wrap
- Print Pre-Press -Insert card
- Print - Insert card
- Vinyl sleeves & assembly

### Vendor A

Quantity 3000	\$14,329.75
Quantity 4000	\$16,918.07
Quantity 5000	✓ \$20,153.45

### Vendor B

Quantity 3000	\$17,366.32
Quantity 4000	\$22,838.22
Quantity 5000	\$28,159.48



**SUBTOTAL:**

**\$31,310.64-43,140.37**

Note: This is an estimate. It is valid for 30 days and does not include applicable sales tax. A 10% contingency should be added to cover unforeseen costs. If costs exceed 10% contingency fee, Lawrence and Schiller will petition and receive preliminary approval before progressing.

Client changes will result in additional charges.

CLIENT APPROVAL: \_\_\_\_\_ DATE: \_\_\_\_\_

DEPARTMENT OF TOURISM & STATE DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this 19th day of December 2007 by and between Department of Tourism & State Development, a state agency, of 711 E. Wells Ave., Pierre, SD 57501, (the "State") and Lawrence & Schiller Advertising of 3932 S. Willow, Sioux Falls, SD 57105 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will provide services as outlined in the attached proposal to provide Web Hosting Services hereto as Exhibit A and by this reference incorporated herein.

The State and Consultant agree that any and all communications between the State and Consultant, whether written or verbal, are to be considered private and confidential. Both the State and Consultant agree, that at no time, either during or after the term of this Agreement, will either the State or Consultant disclose any confidential information to any person(s) whatsoever, except with the prior written consent of the other party. Upon the termination of this Agreement, all documents, papers and other materials associated with the projects outlined in this Agreement will be returned to their respective owners.

2. The Consultant's services under this Agreement shall commence on December 19, 2007 and end on June 20, 2008, unless sooner terminated pursuant to the terms hereof. Thereafter, this Agreement will continue in force for successive one (1) year periods unless terminated pursuant to the original agreement.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant's Employer Identification Number is

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$3,500.00. The State will not pay Consultant's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a



general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

The Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly

identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Billie Jo Waara on behalf of the State, and by Scott Lawrence, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

08-0400-028



LAWRENCE & SCHILLER

# EXHIBIT A PROPOSAL



## WEB HOSTING

South Dakota Office of Tourism

### Date

August 24, 2007

1. Scope of Services
2. Pricing and Authorization

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08-0400-028



**LAWRENCE & SCHILLER**

## SCOPE OF SERVICES

Lawrence & Schiller will provide the following hosting services to the South Dakota Office of Tourism.

Technical Requirement	Shared Hosting
Managed hosting services in a shared web server environment with 99.99% uptime	X
Access to site code through FTP (and Dreamweaver)	X
Bandwidth: 450 MB per second – expandable if needed to 1 GB	X
Testing/development site	X
Microsoft Server 2003 or newer with Microsoft SQL Server 2000	X
Daily database backups with off-site storage	X
Datacenter: 24/7 physical lock down, equipment monitoring & internal alarm system	X
Datacenter: Cisco PIX & Cisco ASA Firewalls	X
Datacenter: Diesel and battery backup to equipment & building	X
Datacenter: Dual, dedicated HVAC units within datacenter & FM200 fire suppression	X
Datacenter: Multi-homed, self healing Internet connectivity to the datacenter from AT&T, Sprint and UUNET	X
Datacenter: Diverse routing of fiber optic with multiple building entrance points	X

## PRICING & AUTHORIZATION

The following prices are based on a 12 month term with the option to extend for another 12 months. Bandwidth usage is based on a 95<sup>th</sup> percentile measured at five minute increments.

Shared Hosting Services	Monthly Fee
Monthly hosting services	\$ 525
1 MB/second of bandwidth (additional bandwidth charged at a rate of \$225/MB/second)	(included)
Flash Media Server (includes one server license)	\$ 250
<b>MONTHLY TOTAL</b>	

**SOUTH DAKOTA OFFICE OF TOURISM**

**LAWRENCE & SCHILLER**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

This estimate is valid for 30 days and does not include applicable sales tax.  
Pricing is based on a term of 24 months.