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STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION of PARKS and RECREATION

172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856
PHONE: (603) 271-3556 FAX: (603) 271-3553 E-MAIL: nhparks@dred.state.nh.us
WEB: www.nhstateparks.org

April 30, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

- 1) Authorize the Department of Resources and Economic Development, Division of Parks and Recreation, Cannon Mountain Aerial Tramway and Ski Area to exercise a 2-year seasonal contract renewal option with Sunri, LLC d/b/a Sport Thoma of Lincoln, NH for All-Terrain Bicycle Rental and Return Shuttle Service during the summer operations at Cannon Mountain Aerial Tramway upon Governor and Executive Council approval through October 31, 2015. The original contract was approved by Governor and Executive Council on May 11, 2011, Item #25B. No state funds are involved in this contract renewal.
- 2) Further authorize the Department to accept a monthly commission payment of 20% to be made by Sport Thoma in accordance with the terms of the contract.

EXPLANATION

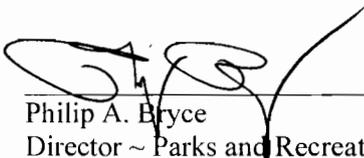
In May 2011, the Governor and Executive Council approved a contract with Sport Thoma to provide All-Terrain Bicycle Rental and Return Shuttle Service through Cannon Mountain and Franconia Notch State Park. At that time, language indicating an option to exercise a two-year renewal option as set forth in "RFP 2011-001 Cannon" was not included in the Requested Action of the G&C request. The Attorney General's office has indicated that for all practical purposes the renewal option is to be considered part of the original contract. Therefore approval to exercise this 2-year contract renewal option is being requested. Attached for your information is a copy of the relevant page of the Request for Proposal.

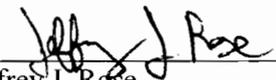
Sport Thoma will continue to offer an all-terrain bicycle rental service with the option of a return shuttle service during the next two (2) summer operating seasons. The shuttle service will have a clearly defined pickup schedule as well as offering other pre-arranged pickups. Sport Thoma will also offer both its renters and the general public small-scale concession items on a non-conflicting/non-competitive basis with Cannon's Old Man Country store, and on-site bicycle repairs on an as-needed basis.

The Attorney General's Office has approved this contract as to form, substance and execution.

Respectfully submitted,

Concurred,


Philip A. Bryce
Director ~ Parks and Recreation


Jeffrey J. Rose
Commissioner

REQUEST FOR PROPOSAL FOR:

ALL-TERRAIN BIKE RENTAL & RETURN SHUTTLE SERVICES AT CANNON MOUNTAIN AERIAL TRAMWAY & SKI AREA

PURPOSE: The purpose of this Request for Proposals (RFP) is to secure an all-terrain bike rental and return shuttle (from the Flume Gorge back up to the Tramway) provider (hereinafter referred to as "Vendor"), via competitive bid process, to be based at the information desk at the Cannon Mountain Aerial Tramway during the months of June through October annually (proposed schedule below). Cannon seeks a two (2) year agreement, with a joint option for two (2) year renewal prior to expiration of any current agreement. Cannon requires that heavier-duty (all-terrain) bikes be rented, primarily for use within Franconia Notch State Park by its guests, and with consideration toward the changing nature of the terrain within the park, whether on paved or unpaved surfaces.

It is the intent of Cannon Mountain to be paid monthly by the vendor (should a contract be awarded) based on the percentage of gross sales/rentals each month specified below by the vendor. Vendor shall maintain accurate records and make them available upon request by Cannon Mountain, to assure fair practices and payments.

It is the intent of Cannon Mountain to open bids and make a determination as to whether to enter into a vendor agreement with the winning bidder on Monday, April 4, 2011. Should Cannon Mountain make a determination to award a bid and enter into an agreement with a vendor, the vendor agreement shall then be submitted to the Attorney General's Office for approval and then forwarded into the Governor & Executive Council calendar process, with the intent of securing Governor & Executive Council approval on May 11, 2011. Contract dates: May 15, 2011 – May 14, 2013.

It is the intent of Cannon Mountain to secure a two (2) year contract for all-terrain bike rental & return shuttle services (during Tramway operating hours) during each summer season on weekends and holidays from Memorial Day Weekend through Independence Day, daily from Independence Day through Labor Day, and on weekends and holidays from Labor Day through Columbus Day. It is understood by Cannon Mountain that said schedule may be subject to (and impacted by, whether positively or negatively) weather concerns and/or business volume, and that said schedule may be altered via a discussion between parties. The bike rentals may involve any and all routes within Franconia Notch; the intent of the return shuttle would be solely to return bikes and users from the southern end of Franconia Notch (at the Flume Gorge) to the northern end of Franconia Notch (at the Tramway). The vendor would only be required to run return shuttles on a two-hour rotation, or as volume dictates (example – open @ 10 AM, with shuttles at Noon, 2 PM, 4 PM).

It is the intent of Cannon Mountain to receive offers based solely on the accounts included in this RFP.

GENERAL PROVISIONS: This RFP does not commit Cannon Mountain to award a contract with vendor, pay any costs incurred in preparing a response, or procure or contract for services. Any resulting contracts from this RFP will be effective from May 15, 2011 – May 14, 2013 (with effective seasons of late May through mid-October, 2011 & 2012).

Vendors responding to this request will bear all expenses incurred in the preparation of their responses. Furthermore any cost to investigate usage profiles or provide oral or written clarification of their proposals shall be borne by the suppliers. The State of New Hampshire assumes no responsibility for these costs. All responding vendors are instructed to submit one original and three copies of their bids.

Qualification Statements must be submitted as directed per Proposal Format & Content Description, and Bid Submission must be received on the forms supplied in Exhibit A (including all appendices). Qualification Statements and Bid Forms must be typed or computer processed and mailed or delivered in person. All proposals become the property of the State after the bid deadline.

CONTRACT TERM: The selected vendor may have the opportunity to enter into an all-terrain bike rental and return shuttle contract with Cannon Mountain for the summer/fall seasons of 2011 & 2012. The contract may be extended for a period up to two (2) years with terms and conditions agreed upon by both parties and the renewal approved by the Governor & Executive Council. The contract would be effective May 15, 2011 – May 14, 2013, but applicable only to the summer/fall seasons during which biking business occurs and the Tramway and Flume Gorge are in operation.

INSURANCE: Prior to award of this contract, the vendor shall furnish a Certificate of Insurance as evidence of existence of broad form comprehensive general liability (CGL) in minimum amount of not less than \$250,000.00 per claimant, and \$2,000,000.00 per incident. The vendor shall also furnish proof of workers' compensation insurance coverage, or affirm in writing that they are not required to maintain such insurance under New Hampshire law.



Subject:

All Terrain Bicycle Rental and Return Shuttle Service at Cannon Mtn

FORM NUMBER P-37 (version 1/09)

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Resource & Economic Development		1.2 State Agency Address P.O. Box 1856, Concord, NH 03302-1856	
1.3 Contractor Name Sunri, LLC d/b/a Sport Thoma		1.4 Contractor Address 371 Route 3 ~ Lincoln, NH 03251	
1.5 Contractor Phone Number 603-745-8151	1.6 Account Number N/A	1.7 Completion Date October 31, 2015	1.8 Price Limitation 20% Commission
1.9 Contracting Officer for State Agency John M. DeVivo		1.10 State Agency Telephone Number 603-823-8800x-750	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Peter Kasey owner/member	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Grafton</u> On <u>4/15/2013</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Notary Public - New Hampshire My Commission Expires November 4, 2014			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Jeffrey J. Rose, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>N/A</u> Director, On:			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: On: <u>5/1/13</u>			
1.18 Approval by the Governor and Executive Council By: On:			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor initials: 
DATE: 11/16/13

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

 PK
11/15

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

DK
[Redacted signature area]

Cannon / Sunri LLC Contract: 2013 -2014 Summer Seasons

Exhibit A – Rental Bike & Return Shuttle Contract

Scope of Services:

Sunri, LLC, dba Sport Thoma (henceforth referred to as Sport Thoma) shall operate a concessioned all-terrain bicycle rental service based at the Cannon Mountain Aerial Tramway (henceforth referred to as Cannon) during the summer Tramway operating seasons in 2013 and 2014. Operating hours of the bicycle rental service shall be the same as the operating hours of the Tramway. Included with each bicycle rental shall be an ANDI/Snell certified bicycle helmet.

Sport Thoma shall also offer its renters the option of paid return shuttle service from the Flume Gorge, with said shuttle service based on a clearly defined schedule (Noon / 2PM / 4PM) in addition to any pre-arranged pickups.

Sport Thoma shall offer its rental and return shuttle opportunities: during Tramway operating hours, on weekends and holidays between Memorial Day weekend and July 4th weekend and from Labor Day weekend through Columbus Day Weekend, and daily between July 4th Weekend and Labor Day weekend.

Rates are set as follows:

Half-day rental @ \$20 (incl. helmet) / Full-day rental @\$30 (incl. helmet)

Return Shuttle option @ \$10/person for Sport Thoma renters and \$20/person for the general public.

Sport Thoma shall offer both its renters and the general public small-scale purchase items on a non-conflicting/non-competitive basis with Cannon's Old Man Country Store, and in a manner non-conflicting with the Cannon/FNSP relationship with Centerplate, Inc. (F&B contractor). Sport Thoma may also offer limited on-site bicycle repair services on an as-needed basis.

Sport Thoma shall operate this rental enterprise based at the side information desk at Cannon Mountain Aerial Tramway, and shall be afforded internal presentation / sales space and external bicycle fleet presentation space. Storage and security for the bicycle for the bicycle fleet shall be available at the Cannon Mountain Aerial Tramway base facility during each operating season. The base facility shall be locked during non-operating hours, but Cannon assumes no responsibility for the safety and security of Sport Thoma's equipment at the facility. Availability of utilities for Sport Thoma's use shall be restricted to two (2) 110-volt receptacles inside and two (2) 110-volt receptacles outside the facility.

Sport Thoma shall track and report its gross monthly revenues (May – October, 2013 and May – October, 2014) and pay a commission to Cannon of 20% during each following month (See Exhibit B).

Cannon / Sunri LLC Contract: 2013 -2014 Summer Seasons

Exhibit B – Rental Bike & Return Shuttle Contract

Payment Terms:

Sunri, LLC, dba Sport Thoma (henceforth referred to as Sport Thoma) shall track and report its gross monthly revenues (May – October, 2013 and May – October, 2014) for all activities conducted pursuant to this agreement and shall pay a commission to Cannon Mountain Aerial Tramway and Ski Area (Cannon) of 20% of the gross monthly revenues during each following month (June – November, 2013 and June – November, 2014). By way of example, and not limitation, the commission payment due in June 2013 shall be based on May 2013 gross revenues.

Payment shall be remitted to Cannon Mountain Aerial Tramway & Ski Area (Attn: Accounts Payable, 260 Tramway Drive, Franconia, NH 03580) by no later than the 15th of each month (June – November). A late payment penalty of 5% shall be assessed by Cannon if payment is not received on or before the 15th of a particular month in question (following the month in which the revenues were earned). Said 5% penalty shall be compounded monthly for 30, 60, 90, 120-day late payment on a particular month's payment.

Cannon / Sunri LLC Contract: 2013 -2014 Summer Seasons

Exhibit C – Rental Bike & Return Shuttle Contract

Changes / Additions to Standard P-37 Contract:

Item 4 - Conditional Nature of Agreement

The vendor, Sunri, LLC dba Sport Thoma (henceforth referred to as Sport Thoma) shall make monthly payment to the State; the State shall make no payment to Sport Thoma.

Item 5 - Contract Price / Price Limitation / Payment

Sport Thoma shall make monthly payment to the State; the State shall make no payment to Sport Thoma.

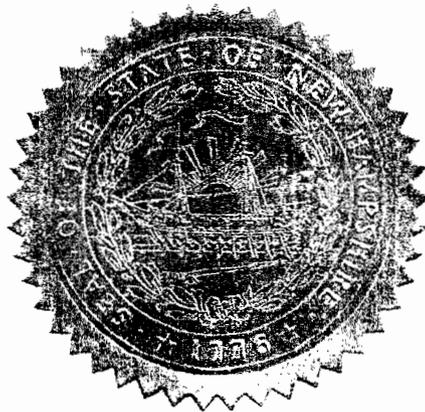
Audit -

The State (Cannon / NH Division of Parks & Recreation) maintains the right to audit all of Sport Thom's financials relative to this contract, and Sport Thoma agrees to fully cooperate with such an audit. This provision shall survive the termination of this contract.

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Sunri Limited Liability Company is a New Hampshire limited liability company formed on May 4, 2006. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 25th day of April, A.D. 2013

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

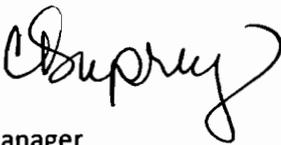
Sport Thoma

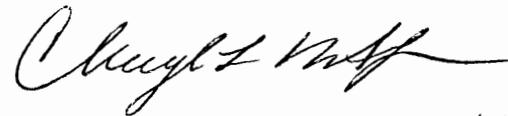
April 15, 2013



To whom it may concern:

This letter is to verify that Peter Kailey is an authorized signatory for Sunri, LLC in all matters.

Cary Duprey 
Operations Manager


Cheryl L McAfee, Notary
April 15, 2013



337) 31111

STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
OFFICE of the COMMISSIONER
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

GEORGE M. BALD
Commissioner

603-271-2411
FAX: 603-271-2629
george.bald@dred.state.nh.us

April 19, 2011

His Excellency Governor John H. Lynch
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

- 1) Authorize the Department of Resources and Economic Development, Division of Parks and Recreation, Cannon Mountain Aerial Tramway and Ski Area to enter into a 2-year seasonal contract with Sunri, LLC, d/b/a Sport Thoma, Lincoln, NH for All-Terrain Bicycle Rental and Return Shuttle Service during summer operations at Cannon Mountain Aerial Tramway upon Governor and Executive Council approval through October 31, 2012. No State funds are involved in this contract.
- 2) Further authorize the Department to accept a monthly commission payment of 20% to be made by Sport Thoma in accordance with the terms of the contract.

EXPLANATION

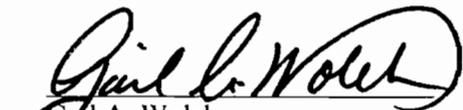
The management team at Cannon Mountain Aerial Tramway and Ski Area entered into a competitive bid process for an All-Terrain Bicycle Rental and Return Shuttle Service in March, 2011. Eight (8) Northern New Hampshire based vendors were contacted. Four (4) vendors expressed interest but only two (2) submitted proposals. A three (3) person selection committee reviewed the proposals and Sport Thoma was determined to be the best fit for Cannon Mountain. A copy of the timeline, vendors contacted, proposals received, selection committee members, and the Request for Proposals (RFP) notice are attached for your information.

Sport Thoma will offer an all-terrain bicycle rental service with the option of a return shuttle service during the next two (2) summer operating seasons. The shuttle service will have a clearly defined pickup schedule as well as offering other pre-arranged pickups. Sport Thoma will also offer both its renters and the general public small-scale concession items on a non-conflicting/non-competitive basis with Cannon's Old Man Country Store and on-site bicycle repairs on an as-needed basis.

The Attorney General's office has approved this contract as to form, substance and execution.

Respectfully submitted,

Concurred, *JM*


Gail A. Wolek
Interim Director


George M. Bald
Commissioner

GAW/GMB/jd/lml

**RFP 2011-001-Cannon // Scoresheet // Vendor Qualification Statement & Proposal
FINALISTS**

Scorers	John M. DeVivo, General Manager Gregory Keeler, Director of Sales & Marketing Gareth Slattery, Mountain Operations & Risk Manager Bids received on April 8, 2011 /// Results scored and tabulated on April 9, 2011
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Vendor	Qual of Svc (0-15)	Reliab of Svc (0-15)	Coord of Svc (0-15)	Competitive Offer (45-55)	Total Points
Franconia Sports Shop					
DeVivo	12	11	12	50	85
Keeler	13	9	9	55	86
Slattery	10	9	10	51	80
Total					251
Sport Thoma					
DeVivo	14	14	13	50	91
Keeler	15	14	13	45	87
Slattery	10	10	10	49	79
Total					257

RFP 2011-001-Cannon // Timeline

- January 31, 2011: Contact attempted with eight (8) vendors meeting profile of being within a 30-minute drive of Franconia Notch, having a solid working relationship with Cannon & FNSP, and having a well-established bike shop business:
- Art's Outdoor Outfitters / Lincoln / via e-mail... no response
 - Franconia Sports Shop / Franconia / via e-mail... very interested
 - Lahout's Outfitters / Littleton & Lincoln / via e-mail... no response
 - Littleton Bike & Fitness / Littleton / via phone... no response
 - Rodgers' Ski & Sports / Lincoln / via e-mail... very interested
 - Ski Fanatics / Campton / via e-mail... very interested
 - Sport Thoma / Lincoln & Woodstock / via e-mail... very interested
 - Village Ski & Sport / Lincoln / via e-mail... no response
- March 16, 2011: RFP 2011-001-Cannon sent to four (4) vendors responding to initial contact:
- Franconia Sports Shop / Franconia / via e-mail... very interested
 - Rodgers' Ski & Sports / Lincoln / via e-mail... very interested
 - Ski Fanatics / Campton / via e-mail... very interested
 - Sport Thoma / Lincoln & Woodstock / via e-mail... very interested
- March 22, 2011: Voluntary pre-bid meeting @ Cannon... attended by:
- Franconia Sports Shop / Franconia
 - Rodgers' Ski & Sports / Lincoln
 - Sport Thoma / Lincoln & Woodstock
- March 23, 2011: Addendum 1 (answers to questions) sent to:
- Franconia Sports Shop / Franconia
 - Rodgers' Ski & Sports / Lincoln
 - Ski Fanatics / Campton
 - Sport Thoma / Lincoln & Woodstock
- April 1, 2011: Qualification Statements received from:
- Franconia Sports Shop / Franconia
 - Sport Thoma / Lincoln & Woodstock
- April 8, 2011: Bids received from:
- Franconia Sports Shop / Franconia
 - Sport Thoma / Lincoln & Woodstock
- April 9, 2011: Qualification Statements / Bids scored by:
- John M. DeVivo, General Manager Cannon & FNSP
 - Gregory Keeler, Dir. Sales & Marketing Cannon & FNSP
 - Gareth Slattery, Mtn Ops & Risk Manager Cannon & FNSP
- April 11, 2011: Winning bidder notified

Time of Bid Opening: 4:00 PM (EST) on Friday, April 8

PLEASE DIRECT ANY QUESTIONS REGARDING THIS BID TO: John M. DeVivo, GM / Cannon Mountain & Franconia Notch State Park
TEL. NO: (603) 823-8800 & FAX NO. (603) 823-8088
jdevivo@dred.state.nh.us

REQUEST FOR BID FOR: ALL-TERRAIN BIKE RENTAL & RETURN SHUTTLE SERVICES
AT CANNON MOUNTAIN AERIAL TRAMWAY & SKI AREA

Unless specifically amended or deleted by Cannon Mountain Aerial Tramway & Ski Area ("Cannon Mountain"), the following general terms and conditions apply to this bid and any resulting purchase order or contract.

GENERAL CONDITIONS AND INSTRUCTIONS:

NATURE OF, AND ELIGIBILITY TO RESPOND. This bid invitation is submitted in accordance with Chapter 21-I, and rules promulgated thereunder, and constitutes a firm and binding offer. A bid may not be withdrawn unless permission is obtained from Cannon.

SAMPLES AND DEMONSTRATIONS. When samples are required they must be submitted free of costs and will not be returned.

Items left for demonstration or evaluation purposes shall be delivered and installed free of charge and shall be removed at no cost to the State. Demonstration units shall not be offered to the State as new equipment.

Bids. Bids must be received at Cannon Mountain before the date and time specified for the opening. Bids must be submitted on this bid form or exact copies and must be typed or clearly printed in ink. Corrections must be initialed. Bids are to be made less Federal Excise Tax and no charge for handling unless required by law.

Bid results will be made available to the public after the time of award. Bid results will be by mail only if requested in writing and accompanied by a self-addressed, stamped business size envelope.

SPECIFICATIONS. Vendors must submit on items as specified. Proposed changes must be submitted in writing and received at Cannon Mountain at least five (5) working days prior to the bid opening. Vendors shall be notified in writing if any changes to the specifications are made.

AWARD. The award will be made to the responsible Vendor submitting a conforming RFP meeting specifications at the lowest cost unless other criteria are noted in the RFP. Unless otherwise noted, the award may be made by individual items.

If there is a discrepancy between the unit price and the extension, the unit price will prevail.

When identical low bids are received the award will be made in accordance with the Administrative Rules.

PATENT INFRINGEMENT. Any responding vendor who has reason to believe that any other responding vendor will violate a patent should such responding vendor be awarded the contract shall set forth in writing, prior to the date and time of opening, the grounds for his belief and a detailed description of the patent.

ASSIGNMENT PROVISION. The responding vendor hereby agrees to assign all right of action that it may acquire under the antitrust laws of New Hampshire and the United States as the result of conspiracies, combinations, or contracts in restraint of trade which materially affect the price of goods or services obtained by the state under this contract if so requested by the State of New Hampshire.

STATE'S OPTIONS: Cannon Mountain reserves the right to reject or accept all or any part of any bid, to determine what constitutes a conforming bid, to award the bid solely as it deems to be in the best interest of the State, and to waive irregularities that it considers not material to the bid.

PUBLIC INFORMATION: The responding vendor hereby acknowledges that all information relating to this bid and any resulting order (including but not limited to fees, contracts, agreements and prices) are subject to these laws of the State of New Hampshire regarding public information.

PERSONAL LIABILITY: The responding vendor agrees that in the preparation of this bid or the execution of any resulting contract or order, representatives of the State of New Hampshire shall incur no liability of any kind.

PROOF OF COMPLIANCE. The responding vendor may be required to supply proof of compliance with proposal specifications. When requested, the responding vendor must immediately supply Cannon Mountain with certified test results or certificates of compliance. Where none are available, the State may require independent laboratory testing. All costs for such testing, certified test results or certificate of compliance shall be the responsibility of the responding vendor.
FORM OF CONTRACT. The successful bidder will be required to enter into a standard State of New Hampshire Agreement to Purchase Services (Form Number p-37, version 1/09), a blank copy of which is attached to this RFP (Appendix B). Submission of a proposal in response to this RFP will be understood as a bidder's understanding and acceptance of the terms in pages 1-4 of the P-37. The successful bidder, at the time of contracting, shall be required to provide proof of adequate levels of insurance, proof of being in good standing with the New Hampshire Secretary of State's Office, and shall provide a certificate of authority for the individual executing the contractor on behalf of the corporate entity.

OFFER. The undersigned hereby offers to provide Cannon Mountain with the services indicated in the following page(s) of this Bid under the conditions quoted in complete accordance with all conditions of this Bid.

Company Name: SUNAI LLC aka SPORT THOMAS

Address: 371 ROUTE 3 PO BOX 37
LINCOLN NH 03251

Tel.:(local) 603 745 8151 (Toll free) 888 745 8151

Fax#: 603 745 2108 (EMAIL) thomas@sportthomas.com

Authorized Signature: POER KAITLEY

(TYPE OR PRINT NAME)

This document must be signed by a person who is authorized to legally obligate the responding vendor. A signature on this document indicates that all State of New Hampshire terms and conditions are accepted by the responding vendor and that any and all other terms and conditions submitted by the responding vendor are null and void, even if such terms and conditions have terminology to the contrary. The responding vendor shall also be subject to State of New Hampshire terms and conditions as stated on the reverse of the purchase order.

Schedule of Commission Rates

CONTRACT RATE: This Appendix represents the legally binding rate structure (commission percentage), which the Vendor, SUNRI LLC dba SPORT THOMAS has agreed to offer Cannon Mountain for the All-Terrain Bike Rental & Return Shuttle Service. This agreement is subject to all terms contained in the Cannon Mountain All-Terrain Bike Rental & Return Shuttle Service Agreement.

COMMISSION RATE OFFER:

SUNRI LLC offers the following commission percentage rate (from gross revenues) in response to RFP 2011-001-Cannon, paid on a monthly basis (for previous month):

Term Length:	Revenue Period:	Fixed Offer (% of gross revenue)
05/15/11 – 05/14/12	May – Oct 2011	<u>20%</u>
05/15/12 – 05/14/13	May – Oct 2012	<u>20%</u>

Respectfully Submitted: PETER KAILEY

Representing: SUNRI LLC dba SPORT THOMAS

Date: 4/4/11

Signature: 
(Matching name on Certificate of Authority and agreement)

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Cannon Mtn. Aerial Tramway and Ski Area		1.2 State Agency Address 9 Franconia Notch Parkway ~ Franconia, NH 03580	
1.3 Contractor Name Sunri, LLC d/b/a Sport Thoma		1.4 Contractor Address 371 Route 3 ~ Lincoln, NH 03251	
1.5 Contractor Phone Number 603-745-8151	1.6 Account Number N/A	1.7 Completion Date October 31, 2012	1.8 Price Limitation 20% Commission Based
1.9 Contracting Officer for State Agency John M. DeVivo		1.10 State Agency Telephone Number 603-823-8800 X-750	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Peter Kailey, Owner	
1.13 Acknowledgement: State of NH , County of Merrimack On 4/27/11 , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal]		LEANNE M. LAVOIE, Notary Public My Commission Expires August 22, 2012	
1.13.2 Name and Title of Notary or Justice of the Peace 			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory George M. Bald, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: N/A Director, On:			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: On: 4/27/2011			
1.18 Approval by the Governor and Executive Council By: On:			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

Contractor Initials PO
Date 4-12-11

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Cannon / Sunri LLC Contract: 2011 – 2012 Summer Seasons

Exhibit A – Rental Bike & Return Shuttle Contract

Scope of Services:

Sunri, LLC, dba Sport Thoma (henceforth referred to as Sport Thoma) shall operate a concessioned all-terrain bicycle rental service based at the Cannon Mountain Aerial Tramway (henceforth referred to as Cannon) during the summer Tramway operating seasons in 2011 and 2012. Operating hours of the bicycle rental service shall be the same as the operating hours of the Tramway. Included with each bicycle rental shall be an ANSI/Snell certified bicycle helmet.

Sport Thoma shall also offer its renters the option of paid return shuttle service from the Flume Gorge, with said shuttle service based on a clearly defined schedule (Noon / 2 PM / 4 PM) in addition to any pre-arranged pickups.

Sport Thoma shall offer its rental and return shuttle opportunities: during Tramway operating hours on weekends and holidays between Memorial Day Weekend and July 4th Weekend and from Labor Day Weekend through Columbus Day Weekend, and daily between July 4th Weekend and Labor Day Weekend.

Rates are set as follows:

Half-day rental @ \$20 (incl. helmet) / Full-day rental @ \$30 (incl. helmet)
Return Shuttle option @ \$10

Sport Thoma shall offer both its renters and the general public small-scale purchase items on a non-conflicting/non-competitive basis with Cannon's Old Man Country Store, and in a manner non-conflicting with the Cannon/FNSP relationship with Centerplate, Inc. (F&B contractor). Sport Thoma may also offer limited on-site bicycle repair services on an as-needed basis.

Sport Thoma shall operate this rental enterprise based at the side information desk at the Cannon Mountain Aerial Tramway, and shall be afforded internal presentation / sales space and external bicycle fleet presentation space. Storage and security for the bicycle fleet shall be available at the Cannon Mountain Aerial Tramway base facility during each operating season. The base facility shall be locked during non-operating hours, but Cannon assumes no responsibility for the safety or security of Sport Thoma's equipment at the facility. Availability of utilities for Sport Thoma's use shall be restricted to two (2) 110-volt receptacles inside and two (2) 110-volt receptacles outside the facility.

Sport Thoma shall track and report its gross monthly revenues (May – October, 2011 and May – October, 2012) and pay a commission to Cannon of 20% during each following month (See Exhibit B).

Cannon / Sunri LLC Contract: 2011 – 2012 Summer Seasons

Exhibit B – Rental Bike & Return Shuttle Contract

Payment terms:

Sunri, LLC, dba Sport Thoma (henceforth referred to as Sport Thoma) shall track and report its gross monthly revenues (May – October, 2011 and May – October, 2012) for all activities conducted pursuant to this agreement and shall pay a commission to Cannon Mountain Aerial Tramway & Ski Area (Cannon) of 20% of the gross monthly revenues during each following month (June – November, 2011 and June – November, 2012). By way of example, and not limitation, the commission payment due in June 2011 shall be based on May 2011 gross revenues.

Payment shall be remitted to Cannon Mountain Aerial Tramway & Ski Area (Attn: Accounts Payable, 9 Franconia Notch Parkway, Franconia, NH 03580) by no later than the 15th of each month (June – November). A late payment penalty of 5% shall be assessed by Cannon if payment is not received on or before the 15th of a particular month in question (following the month in which the revenues were earned). Said 5% penalty shall be compounded monthly for 30, 60, 90, 120-day late payment on a particular month's payment.

Cannon / Sunri LLC Contract: 2011 – 2012 Summer Seasons

Exhibit C – Rental Bike & Return Shuttle Contract

Changes / Additions to Standard P-37 Contract:

Item 4 - Conditional Nature of Agreement

The vendor, Sunri, LLC dba Sport Thoma (henceforth referred to as Sport Thoma) shall make monthly payment to the State; the State shall make no payment to Sport Thoma.

Item 5 - Contract Price/Price Limitation/Payment

Sport Thoma shall make monthly payment to the State; the State shall make no payment to Sport Thoma.

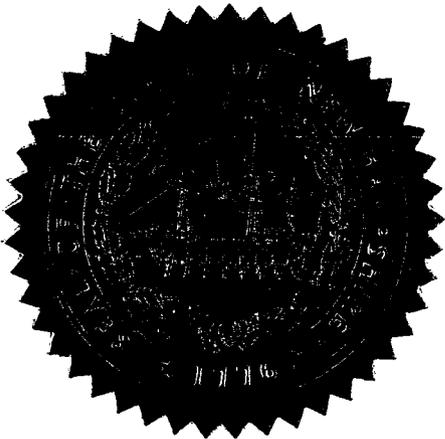
Audit -

The State (Cannon / NH Division of Parks & recreation) maintains the right to audit all of Sport Thoma's financials relative to this contract, and Sport Thoma agrees to fully cooperate with such an audit. This provision shall survive the termination of this contract.

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Sunri Limited Liability Company is a New Hampshire limited liability company formed on May 4, 2006. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 14th day of April, A.D. 2011

A handwritten signature in cursive script, appearing to read "William M. Gardner".

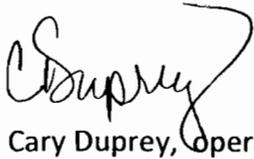
William M. Gardner
Secretary of State

Sport Thoma

4/12/11

To whom it may concern:

This is to verify that Peter Kailey is an authorized signatory for Sunri, LLC in all matters.



Cary Duprey, operations manager

