

STATE OF TEXAS           §  
                                  §       TOURISM AGREEMENT  
COUNTY OF GALVESTON §

THIS AGREEMENT (Agreement), is made and entered into by Bay Area Houston Convention and Visitors Bureau, hereinafter referred to as BAHCVB, having its principal place of business at 913 North Meyer Road, Seabrook, Texas, 77686, and the CITY OF LEAGUE CITY, hereinafter referred to as CITY, having its principal place of business at 300 West Walker Street, League City, Texas, 77573.

WITNESSETH:

WHEREAS, the CITY desires to contract for the management and supervision of the tourism programs described herein, as provided in TEXAS TAX CODE §351.101; and

WHEREAS, BAHCVB hereby agrees to perform the management and supervision of the programs hereinafter specified in accordance with the Agreement; and

NOW, THEREFORE, BAHCVB and the CITY do hereby agree as follows:

ARTICLE I  
LEGAL AUTHORITY

Each party warrants that it possesses adequate legal authority to enter into this Agreement and any necessary amendments hereto.

ARTICLE II  
APPLICABLE LAWS

BAHCVB and the CITY agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, ordinances, and laws in effect or promulgated during the term of this Agreement by the State of Texas.

ARTICLE III  
WHOLE AGREEMENT

The Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any and all oral and written Agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE IV  
TERM

The term of this Agreement shall be for the period, which begins July 1, 2013 and ends June 30, 2016.

ARTICLE V  
SCOPE OF WORK

The services to be performed by BAHCVB are herewith outlined in Attachment "A" Scope of Services, which is hereby incorporated into and made a part of the Agreement.

ARTICLE VI  
PAYMENTS

It is the intention and agreement of the CITY and BAHCVB that BAHCVB will issue invoices to the CITY for the following periods: July 1, 2013 to September 30, 2013, and each quarter period thereafter, calculated at fifteen percent (15%) of the respective Hotel Occupancy Tax (HOT) revenues received during each such period. The City will inform BAHCVB within forty (40) days from the end of each period the total revenue received for that period. BAHCVB will invoice the City fifteen percent (15%) of the total HOT revenues received during each such period.

ARTICLE VII  
REPORTING

BAHCVB shall make an annual report to the City Council of the CITY, which report shall list the expenditures made by BAHCVB from the funds received from the CITY pursuant to this Agreement and an account of hotel occupancy, collateral, advertisement, and other programs that relate to this Agreement. BAHCVB, as required by the Texas Tax Code, shall maintain all revenue received from the CITY under this Agreement in a separate account established for the receipt and expenditures of these funds. BAHCVB shall not commingle any funds received under this Agreement with other funds of BAHCVB. The CITY retains the right to conduct or have conducted an independent audit of all funds received under this Agreement, which audit may be performed by the CITY's audit staff, a certified public accountant firm, or other auditors as designated by the CITY. Such audit will be conducted according to state law, regulations, generally accepted auditing standards, and established procedures and guidelines of the CITY.

ARTICLE VIII  
DEFAULT

A party shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement. Before any failure of any party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within 30 days of the receipt of such notice. If performance has not commenced within 30 days of the receipt of a notice of default, the complaining party may declare the Agreement in default and proceed to seek recovery of any and all damages suffered as a result of such breach.

ARTICLE IX  
INDEPENDENT CONTRACTOR

The parties intend that BAHCVB, in performing the specified services, shall act as an Independent Contractor and shall have control of the work and the manner in which it is performed. BAHCVB will perform BAHCVB's services for the CITY in accordance with currently approved methods and standards applicable to BAHCVB's business. BAHCVB shall be free to contract for similar services to be performed for other employers while BAHCVB is under contract with CITY.

ARTICLE X  
INDEMNITY

BAHCVB agrees to and shall indemnify, hold harmless, and defend the CITY, its officers, agents and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person, or for any and all damages arising out of or in connection with the work performed or required to be performed by BAHCVB, its agents, servants, employees, and/or subcontractors pursuant to this Agreement, the conduct or management of BAHCVB's business or activities, or from any act or omission by BAHCVB, its agents, servants, employees, and/or subcontractors on or about the property, where such injuries, death or damages are caused by the joint negligence of the CITY, its officers, agents and any other person or entity and/or by the joint or sole negligence of BAHCVB, its officers, agents, employees, and/or subcontractors. It is the expressed intention of the parties hereto, both the BAHCVB and the CITY, that the indemnity provided for in this paragraph is indemnity by the BAHCVB to indemnify and protect the CITY from the consequences of (1) the negligence of the CITY, its officers, agents and/or employees, where that negligence is a concurring cause of the resulting injury, death or damage and/or (2) BAHCVB's its agents', servants', employees', and/or subcontractors' joint and/or sole negligence. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where the injury, death, or damage results from the sole negligence of the CITY, its officers, agents and/or employees unmixed with the fault of any other person or entity, and the CITY agrees to cross indemnify BAHCVB, for City's sole negligence as described above, to the extent permitted by law.

ARTICLE XI  
CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal and state law or regulations, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. Otherwise, the parties hereto, may alter or amend this Agreement only by written amendments mutually agreed upon by BAHCVB and the CITY.

ARTICLE XII  
ASSIGNMENT AND SUBCONTRACTING

BAHCVB may not sell, assign, or subcontract, all or part of its interest in this Agreement to another party or parties without written approval of the CITY of such sale, assignment, or subcontract. The CITY may require any records or financial statements necessary in its opinion to ensure such sale, assignment, or subcontract will be in the best interest of the CITY.

ARTICLE XIII  
WAIVER

Failure of either party hereto to insist on the strict performance of any of the agreements contained herein or to exercise any rights or remedies accruing thereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by an appropriate remedy, strict compliance with any other obligation hereunder, to exercise any right or remedy occurring as a result of any future default or failure of performance.

ARTICLE XIV  
SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE XV  
FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident judgment, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed.

ARTICLE XVI  
VENUE

Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Galveston County, Texas.

ARTICLES XVII  
NOTICES

All notices required by this Agreement shall be delivered in person or by United States mail, postage prepaid, and shall be addressed:

To BAHCVB:

Bay Area Houston Convention and Visitors Bureau  
Attn: Pam Summers  
913 N. Meyer Road  
Seabrook, TX 77586

To CITY:

City of League City  
Attn: Economic Development Manager  
300 West Walker Street  
League City, TX 77573

This instrument, in duplicate originals, has been signed by the parties hereto on the date previously indicated.

BAY AREA HOUSTON CONVENTION  
AND VISITORS BUREAU

CITY OF LEAGUE CITY, TEXAS

By: 

By: 

Date: 6/18/13

Date: 7/10/2013

Attest: 

Attest: 

ATTACHMENT "A"  
SCOPE OF SERVICES

**I. ADVERTISING**

- A. BAHCVB will structure an advertising program through print, internet, radio, and/or TV media outlets that results in 25 million gross impressions.
- B. BAHCVB will structure an advertising program targeting business/meeting sector utilizing the media outlets listed above, as well as trade publications and listings, which will result in 300,000 gross impressions.
- C. BAHCVB will offer its members at least 36 discounted cooperative placement opportunities.
- D. Expected return from total advertising program
  - 1. 8,000 identified room nights (direct or indirect) reported quarterly to each city
  - 2. 80,000 consumer information requests
  - 3. 10,000 referrals to industry partners

**II. WEBSITE**

- A. BAHCVB will maintain an internet presence with an on-line booking engine that includes all member hotels that wish to participate. In addition, BAHCVB will maintain updated listings of all appropriate restaurant/retail/entertainment establishments and events, as provided to us by members. Member cities will also receive a page on the website dedicated to their city, in which they have the option to provide contact info, website address, photo, logo, and marketing copy.
- B. Expected return
  - 1. 250,000 visitors
  - 2. 3:00 average length of session

**III. COLLATERAL**

- A. BAHCVB will develop, print, and distribute 100,000 regional visitors guides, including listings for all regional accommodation properties and up to five specific visitor-oriented establishments provided by each member city. In addition, BAHCVB will offer advertising opportunities to industry partners in BAHCVB collateral.
- B. BAHCVB will develop, print, and distribute 5,000 meeting planner guides, including listings for all regional meeting space facilities as provided by the members.

**IV. PUBLIC RELATIONS**

- A. BAHCVB will distribute press releases for events, articles of interest, and announcements that are relevant to the visitor destination industry. Press releases will be sent to the appropriate target market, gleaned from a distribution list that will include 300 qualified media outlets located throughout the drive market, the state, and the shoulder regions.
  - 1. Expected return
    - a) *24 press releases*
    - b) *12 media inquiries*
    - c) *\$1.2 million value in earned media*
- B. BAHCVB will distribute calendar listings of events (as provided by members) to statewide print and website media outlets.
  - 1. Expected return:
    - a. *144 events calendar listings distributed statewide*
- C. BAHCVB will host qualified media representatives on familiarization tours of the region.
  - 1. Expected return
    - a. *72 media representatives*

## **V. BUSINESS AND MEETING OUTREACH INITIATIVES**

- A. BAHCVB will participate in at least 18 tradeshows, networking opportunities and sales calls with targeted meeting and business sectors, and host site visits of regional facilities. We will also develop an Advisory Committee comprised of regional hotel partners to determine how BAHCVB can best support business and meeting outreach initiatives.
  - 1. Expected return
    - a. *3,000 room nights through business/meeting/group traveler leads reported quarterly to each city.*

## **VI. VISITOR SERVICES**

- A. BAHCVB will manage a regional visitor center, offering relevant visitor collateral as provided by members, as well as collateral from other sources.
  - 1. Expected return
    - a. *6,200 meeting and group delegates serviced*
    - b. *7,200 guests serviced*

## **VII. BRAND DEVELOPMENT**

- A. Member city's collateral (as provided by member) will be distributed at no cost to members to 80,000 leads generated by advertising and public relations programs.
- B. BAHCVB will schedule at least 6 speaking engagements at local and regional associations and/or other appropriate establishments to promote the region as a visitor destination. Each member and major attractions will be prominently highlighted at each engagement.
- C. BAHCVB will provide regional representation at a minimum of 8 exhibitions throughout targeted visitor market, offering members the chance to participate when appropriate.

## **VIII. INDUSTRY REPRESENTATION**

- A. BAHCVB will exert reasonable efforts to conduct regular (4/year) visitations with hotel management at their properties.
- B. BAHCVB will fund membership and actively participate in the Texas Hotel & Lodging Association and its programs to ensure advocacy for the travel and hospitality industry within our region and member cities.
- C. BAHCVB will represent the region in state and national travel and hospitality, travel and meetings trade organizations, including Texas Travel Industry Association, US Travel Association, Texas Association of CVBs, Destination Marketing Association International, Meeting Professionals International, SKAL, Executive Women International, Women in Film and Television-Houston Chapter, and others.

## **IX. REPORTING AND ACCOUNTABILITY**

- A. BAHCVB will provide a quarterly, comprehensive report to each member city that details regional progress toward each topic outlined in the scope of services. All information will be reported on a regional level. Room nights will be calculated according to CVB and industry standards.
- B. BAHCVB will review our annual program with the Texas Hotel & Lodging Association for expert evaluation that all activities and scope of services are within the legal bounds of Texas hotel occupancy tax revenues usage legislation.