

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 604 Bradford Ave., Kemah, TX 77564, 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 2  
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 3  
WHOLE AGREEMENT

The Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any 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 4

##### TERM

The term for this contract shall be for a three-year renewable agreement (October 1, 2016 thru September 30, 2019). This agreement may be terminated for any reason with 90 days' notice. Notification of termination must be received in writing by the Board Chairman of the BAHCVB. Upon receipt of notice, the Board Chairman will notify the current Board members of the **BAHCVB** and the Executive Director. **BAHCVB** will discontinue work 90 days after delivery of the written notice. Upon such termination, **BAHCVB** shall be entitled to payment until the termination date.

#### ARTICLE 5

##### 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 6

##### COORDINATION OF MARKETING EFFORTS

The **BAHCVB** and each City shall work together and coordinate their respective marketing activities to avoid duplication of efforts and to increase marketing efficiency. Thru its annual plan the **BAHCVB** will develop their marketing efforts with the guidance and recommendations of the Marketing Task Force. The task force will consist of the **BAHCVB** Executive Director and one individual from each member city that can in turn report back to their respective city on the plan and accomplishments. The Executive Director will also work closely with each member city's tourism representative to align tourism efforts and vision. BAHCVB shall check with the City to determine whether the City of BAHCVB shall take the lead on marketing efforts for all events and efforts occurring within the city limits of each participating city. The Executive Director will be responsible for providing an annual report to each city of the results of their efforts.

#### ARTICLE 7

##### PAYMENTS

In consideration of the marketing services provided by **BAHCVB**, the City shall compensate **BAHCVB** at the rate equal to fifteen percent (15%) of the respective Hotel Occupancy tax (HOT) revenues collected by the City. The fifteen percent (15%) shall only apply to HOT revenue collected by the City for hotels in operation in League City, Texas as of October 1, 2016. The City shall pay **BAHCVB** within sixty (60) days of the end of each quarter. Each city will also receive and approve an annual budget from the **BAHCVB** no later than September 15 as a condition to the first payment of the fiscal year by the City.

#### ARTICLE 8

##### REPORTING

**BAHCVB** shall make quarterly and annual reports to the City Council of the CITY, which report shall list income and 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 inspect the books and records of the **BAHCVB** upon prior written notice and 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. Announcement of such audit requests must be given with a 60 day grace period. The audits will be conducted according to state law, regulations, generally accepted auditing standards, and established procedures and guidelines of the CITY.

#### ARTICLE 9 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 a 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 shall 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 10 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** 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 11 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, courts costs, 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, 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 the 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.

#### ARTICLE 12 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 13 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 14 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 15  
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 16  
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 17  
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 18  
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: Executive Director  
604 Bradford Avenue  
Kemah, TX 77564

To CITY:

City of XXXXXXXXXXXXX  
Attn: City Manager  
Address  
City, State Zip

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 \_\_\_\_\_, TEXAS

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

## SCOPE OF SERVICES

During the term of this agreement, Bay Area Houston Convention and Visitors Bureau ("**BAHCVB**") agrees to provide the following services in coordination with the City:

### I. Finance

- Work with the BAHCVB Board and participating cities to develop a budget
- Present the annual budget and public relations plan to member cities

### II. Marketing and Communications

- Develop a public relations plan outlining objectives, tactics, messaging, and priorities to promote the Bay Area Houston and participating cities
- Offer its members sponsored content and co-op advertising opportunities
- Maintain an internet presence with on-line booking engine that includes all accommodations within the member cities
- Maintain updated listing of all restaurants/retail/entertainment establishment and events as provided by their members
- Provide members with a dedicated page on the **BAHCVB** website in which each CITY will have the option to provide contact information, website address, photo, logo and marketing copy.
- Distribute press releases for events, articles of interest, and announcements relevant to the visitor destination industry, upon request. Press releases will be sent to the appropriate target market, gleaned from a distribution list that includes media outlets located throughout the drive market, the state, and the shoulder regions.
- Distribute calendar listing of events (as provided by the members) to statewide print and website media outlets.
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### III. Collateral

**BAHCVB** will:

- **BAHCVB** will develop, print, and distribute regional visitors guides, including listings for all regional accommodation properties, major visitor attractions and key public events. In conjunction with this they will also help to develop and print a fun map and distribute to all accommodations, attractions, airports, Visitors Centers and Texas Welcome Centers.

### IV. Brand Development

- Thru the Marketing Task Force, coordinate thru member cities on branding of the Bay Area Houston and incorporate city brands and promotional efforts with **BAHCVB** marketing initiative.
- Distribute member cities collateral (as provided by member) at no cost to the members to all leads generated by advertising and public relations programs.
- Provide a hospitality training/education event each year to benefit partners, members and affiliates.

#### V. Industry Representation

- Fund membership and actively participate in the Texas Hotel and Lodging Association and its programs to ensure advocacy for the travel and hospitality industry within our region and member cities
- Exert the effort to visit with hotel management at the participating cities

#### VI. Reporting and Accountability

It is understood that the first year of the newly re-organized **BAHCVB** will be transitional with its main focus on marketing the member cities and regional area. BAHCVB will provide quarterly and annual reports. Reports will provide status of any listed performance measures, details on regional marketing progress and an assessment of how BAHCVB efforts have enhanced travel and tourism for each member city through:

- Status of overall **BAHCVB** Marketing/Business plan goals and objectives
  - Number of tours, visits and meetings with narrative
- Summary of BAHCVB activities and its impact to each member city
- Hotel room nights generated (minimum of 20% of room nights for each member city)
- Number and summary of promotions completed
- Overview of benefits from working closely with the Houston First Organization
- Maintain the Visitors Center (number of walk-ins, call summary and assessment of interest in member cities)
- Summary of promotions to increase reach
- Assessment of advertising and marketing efforts
  - Performance measures:
    - Total reach: 30 million
    - Regional marketing program gross impressions: 25 million
    - Generate 20 travel articles highlighting Bay Area Houston as a tourist destination
    - 24 press releases per year (minimum of 20% of releases must directly mention each member city)
    - Media placement assessment:



- Total number of media placements to include co-op advertising
  - Total value of media placed
  - Total media circulation numbers
  - Total number of gross impressions
- Operate and provide analytics for **BAHCVB** Website
  - Performance measures:
    - Generate 250,000 unique website visitors
    - Average length of session: 1:30
    - Number of clicks to member city websites: 20% increase from prior year
    - Website traffic (i.e., hits, unique visitors, page views, average session length, top 25 pages viewed, top 25 downloads, and number of contacts that subscribe to email blast via Google/Website Analytics)
- Social media analysis
  - Performance measures:
    - List of social media outlets
    - Number of total likes/followers: 25% increase from prior year
    - Number of engaged users: 25% increase from prior year
- Provide relevant and timely updated reports on current happenings, marketing reports etc. with member cities
- Maintain and advertise an area activities/events calendar; distribution of 100 calendar listings statewide (outside the distribution of member cities)