

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 exhibits, as provided herein, constitute the entire 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 both parties.

ARTICLE 4
TERM

Each party who has a signed contract will have the right to terminate this contract each year of the three-year agreement (Agreement July 1, 2017 thru September 30, 2019). Notification of termination must be received in writing by July 1st. Termination may occur if the measurements are not met or exceeded (Refer to addendum). The written notice must be given to the Chairman of the Board of the BAHCVB who in turn will notify the current Board members of the BAHCVB and the Executive Director.

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 their. 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 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 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 inspect the books and records of the **BAHCVB** upon 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 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. Before any failure of any party to perform its obligations under this Agreement shall be deemed to be a breach of 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. The defaulting party shall have thirty (30) days from the receipt of such notice to cure the default. If the default is not cured within this period, the complaining party may declare the Agreement breached and proceed to seek recovery of any and all damages suffered as a result of the 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 means 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 **BAHCVB** and the CITY, that the indemnity provided for in this paragraph is indemnity by **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 concurrent 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 League City
Attn: City Manager
300 W. Walker St.
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 _____, TEXAS

By: _____

By: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

ATTACHMENT "A"
SCOPE OF SERVICES

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

I. Administrative

- Establish a Marketing Task Force Committee
- Work with the **BAHCVB** Board and participating cities to develop a budget
- Present the annual budget and marketing and public relations plan to member cities

II. Marketing and Communications

- Develop a marketing and 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
- Operate and maintain **BAHCVB** website
- 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.

III. Collateral

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 with 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 (Activity, Performance and productivity measurements)

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 reports to gauge the effectiveness of **BAHCVB**'s efforts and how those efforts clearly and significantly impacted travel and tourism to each member city through:

- Status of overall **BAHCVB** Marketing/Business plan goals and objectives
- Summary of **BAHCVB** activities and its impact to each member city
 - Number of tours, visits and meetings with narrative
- Hotel room nights generated
 - Minimum of 10% of room nights for each member city
 - Calculated through industry standards
- 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
 - Assessment of interest in member cities
- Summary of promotions conducted to increase reach, brand awareness
- Assessment of advertising and marketing efforts
 - Regional marketing program gross impressions
 - 25 million with a total overall reach of 30 million
 - 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
 - Return on investment
- Social media analysis
 - List of social media outlets
 - Number of total likes/followers
 - 25% increase from prior year
 - Number of engaged users
 - 25% increase from prior year
- 24 press releases per year
 - Minimum of 20% of releases must directly mention each member city
- Publications by travel writers
 - Generate a minimum of 10 travel articles highlighting Bay Area Houston as a tourist destination
 - 20% of articles must directly mention each member city
- Measurements should be calculated through standards set forth within the Destination Marketing Association International Performance Reporting Handbook
 - Media placement, coverage assessment may also be calculated through other readily available media assessment programs
- **BAHCVB Website Effectiveness**
 - Generate 250,000 unique website visitors
 - Average length of session: 1:30
 - Number of clicks to member city websites
 - Minimum of 20% increase from prior year
 - Website traffic
 - Hits
 - Unique visitors
 - Page views
 - Top 25 pages viewed
 - Top 25 downloads
 - Number of contacts that subscribe to email blast
 - Website metrics may be calculated through any readily available website analysis program
- 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)
- Additional performance measurements may be added through mutual agreement with member cities and **BAHCVB**