

State of Texas §
 § TOURISM AGREEMENT
County of Galveston/Harris §

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 500 Walker St, Kemah, 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

Each party who has a signed contract will have the right to terminate this contract each year of the three year agreement (Agreement October 1, 2019 thru September 30, 2022). Notification of termination must be received in writing by July 1st preceding the next fiscal year. 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 of Directors of the **BAHCVB** and designated BAHCVB staff representative.

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 this agreement.

ARTICLE 6
COORDINATION OF MARKETING EFFORTS

The **BAHCVB** and each member city shall work together and coordinate their respective marketing activities to avoid duplication of efforts and to increase marketing efficiency. Thru its annual Marketing Plan the **BAHCVB** will develop their marketing efforts with the guidance and recommendations from the Executive Board. The Executive Board consists of one city designated individual from each member city that will in turn report back to their respective city on marketing efforts and accomplishments. The Executive Board and designated BAHCVB staff representative will collaborate with member cities, local chambers, other organizations to align their marketing efforts. Reporting and analytics of marketing efforts are herewith outlined in Attachment "A" Scope of Services.

ARTICLE 7
PAYMENTS

In consideration of the marketing services provide 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 the quarter. Each member city will receive an annual budget from the BAHCVB no later than September 15th as a condition to the first payment of the fiscal year by the city.

ARTICLE 8 REPORTING

BAHCVB shall submit quarterly reports within 45 days of the close of each quarter. The report shall list the expenditures made by the **BAHCVB** from the funds received from each member city pursuant to this Agreement and will include an account of hotel occupancy during reporting quarter.

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.

Additional reporting services are herewith outlined in Attachment "A" Scope of Services: Accountability.

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. 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. 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 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 approval of the **BAHCVB** Board of Directors of such sale, assignment, or subcontract.

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: Marketing and Visitor Center Manager
604 Bradford Avenue
Kemah, TX 77565

To CITY:

City of League City
Attn: City Manager
500 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 LEAGUE CITY, 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. Finance
 - Work with **BAHCVB** Board of Directors and designated staff representative to develop an annual budget.
 - Provide quarterly reports as outlined in Article 8 of this Agreement.

- II. Marketing and Communications
 - Develop a marketing plan outlining objectives, tactics, messaging, and priorities to promote the Bay Area Houston and participating cities.
 - Maintain an internet presence with online booking engine that includes all accommodations within the member cities.
 - Maintain update online 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 member 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.
 - Develop and maintain all applicable social media networks as identified by the Executive Board. Each member city will receive engaging social media coverage.

- III. Collateral
 - Develop, print, and distribute regional visitor's guides, including listings for all regional accommodation properties, major visitor attractions and key public events once per year. An area map will be included in the publication and it will be distributed to all accommodations, attractions, airports, and visitor/welcome centers throughout the state.
 - The BAHCVB will develop and maintain a digital and sharable photo library and each member city will have access to use photos at their discretion.

- Each year produce an engaging video that markets the entire region. The video will be posted to social media networks and also available in a digital format to each member city. Footage from any and all video productions will be made available to member cities to use at their discretion.
- Additional collateral may be developed as agreed upon by the BAHCVB Board of Directors throughout the terms of this Agreement.

IV. Brand Development

- Coordinate thru member cities on the 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 minimum of three (3) hospitality and/or business training/education events each year to benefit partners, members and affiliates.

V. Industry and Event 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
- Actively attend meetings and participate with the Greater Houston Convention and Visitor's program "Houston and Beyond".
- Attend member city events and promote area attractions, hotels, dining, and retail.
- Participate in trade-shows as directed by the BAHCVB Board of Directors.

VI. Accountability

- Monthly Marketing Reports
 - Visitor Center Numbers and Calls
 - Monthly Website Metrics
 - Social Media Insights
 - Email Blast Analytics
 - Current Events and Happenings
 - Number of Tours, Visits and Meetings
- Bi-Annual updates/presentations to member cities when requested.
- Annual State of the Bay Address to update all member city on the yearly accomplishment of the BAHCVB and the current state of tourism in the greater Houston region.