

MANAGEMENT AGREEMENT
ANN ARBOR AREA CONVENTION AND VISITORS BUREAU, INC.

AGREEMENT is made this _____ day of December , 2009, by the COUNTY OF WASHTENAW, a municipal corporation, with offices located in the County Administration Building, 220 North Main Street, Ann Arbor, Michigan 48107 ("County") and the ANN ARBOR AREA CONVENTION AND VISITORS BUREAU, INC. a non-profit corporation located at 120 W. Huron, Ann Arbor, Michigan 48104 ("Bureau").

WHEREAS, the Bureau's mission is to enhance the economy of Washtenaw County through the promotion of the County as a destination for overnight visitors; and

WHEREAS, the Bureau is organized to solicit and book conventions; to marshal and adapt community resources to the needs of each convention; to work with and advise convention officials; to promote, encourage and develop tourism for the Ann Arbor area in particular and the County of Washtenaw, Michigan in general, and to serve visitors to the community; and

WHEREAS, the County pursuant to its Accommodation Tax Ordinance ("Ordinance") and through its Accommodation Ordinance Commission ("Commission") desires to avail itself of the services of the Bureau for the benefit and prosperity of its inhabitants.

NOW THEREFORE, in consideration of the promises and mutual covenants in this Agreement, the County and Bureau agree as follows:

ARTICLE I - SCOPE OF SERVICES

The parties expressly understand and agree that the funds generated by the Accommodation Tax and paid to the Bureau shall be used solely for the purpose of fostering tourism and securing convention by the Bureau. To that extent, the Bureau shall provide the following services to the County:

- a. Conduct and aggressive marketing and sales program, stressing the advantages of the Ann Arbor area in particular and Washtenaw County in general.
- b. Prepare and distribute as widely as possible, printed and/or electronic materials regarding convention and tourism opportunities in Ann Arbor and Washtenaw County.
- c. Secure conventions, through participating in bidding, travel and other necessary means.
- d. Assist in convention arrangements.
- e. Operate a housing bureau.
- f. Define and publicize points of interest from a tourism standpoint.
- g. Assist in planning and development of new points of interest and activities.

- h. Co-operate with the County's Employment Training and Community Services Group to provide employment and training opportunities to unemployed and underemployed persons who reside in Washtenaw County.

ARTICLE II- COMPENSATION

The method of payment by the County to the Bureau for the services provided by the Bureau under this Agreement shall be as explained below.

a. **As provided in Article III below, the County shall receive ten 10% of all tax proceeds plus interest and penalties to defray the cost of collecting the tax and administering the Ordinance. Once this amount is retained, the remaining funds shall be disbursed as follows: On or before the first business day of each month following the month of collection, the County Treasurer shall remit seventy-five (75%) percent of the total proceeds (excluding interest and penalty fees) collected under the Ordinance for the preceding month to the Bureau. (The remaining 25% of tax proceeds shall be paid to the Ypsilanti Area Convention and Visitors Bureau, Inc.).**

b. Each quarter the Bureau shall submit financial operating statements for the preceding months to the County and the Commission.

c. The parties agree, that pursuant to State law, all funds retained by the County, as provided in subpart (a) above, shall be placed in a special accommodations fund under the County Treasurer's control, to pay for the administration and enforcement of the Accommodation Ordinance. The County shall periodically report on the use of the fund.

~~c. The parties understand and agree that the percentage identified in (a) above may be subject to change if the County should contract with other agencies for use of the proceeds of the Accommodations Tax.~~

ARTICLE III — FEES

The County shall receive **ten (10%)** per cent of all proceeds plus interest and penalty of fees collected under the Ordinance for collection expenses incurred by the County Treasurer's Office, Finance Office and Corporation Counsel. This amount shall be deducted from the proceeds prior to remittance to the Bureau of the balance of the proceeds in accordance with paragraph II of this Agreement. This percentage fee shall be reviewed annually in November of each year to be adjusted as necessary on January 1 of the following year.

ARTICLE IV - ACCOMMODATION ORDINANCE

The Bureau recognizes that the County's Board of Commissioners has adopted an Accommodations Ordinance to govern the collection of the Accommodation Tax. The Bureau agrees that it will abide by all sections of the Ordinance and that the Commission shall have the authority as stated in the Ordinance.

COLLECTIONS

The County agrees that pursuant to its Accommodation Ordinance Collection Policy, (“Policy”), the County Treasurer and Corporation Counsel shall take timely action to collect any delinquent accommodation tax by following the protocol established by the Policy

ARTICLE V - REPORTING OF CONTRACTOR

- Section 1 The Bureau shall report periodically to the Commission and will confer with that group as necessary to insure satisfactory work progress.
- Section 2 All reports, estimates, memoranda and documents submitted by the Bureau must be dated and bear the Bureau’s name.
- Section 3 All reports made in connection with the services provided hereunder shall be subject to review and final approval by the County Administrator.
- Section 4 The County may review and inspect the Bureau’s activities during the term of this Agreement.
- Section 5 If applicable, the Bureau will submit a final, written report to the County Administrator.
- Section 6 After reasonable notice to the Bureau, the County may review any of the Bureau’s internal books, records, reports or insurance policies as they pertain to this Agreement.

ARTICLE VI- TERM

This Agreement shall begin on January 1, 2010 and end on December 31, 2014.

ARTICLE VII- BUDGET AND OPERATING STATEMENT

The Bureau shall submit its proposed budget annually to the Ordinance Commission for approval, and agrees to submit quarterly program and financial reports to the Commission. Within ninety (90) days after the close of the fiscal year (January 1 — December 31) of the Bureau, the Bureau will deliver to the County and the Commission a financial operating statement of the business of the Bureau, in such detail and with such supporting documents as the County may reasonably request.

ARTICLE VIII- AUDIT

The Bureau shall provide the County with an annual certified audit statement prepared by an independent auditing firm within ninety (90) days of the close of the fiscal year. The Bureau may request and extension of time for completing the financial operating statement referenced in Article VII and the audit to assist in reducing costs

ARTICLE IX - PERSONNEL

- Section 1 The Bureau shall provide the required services and will not subcontract or assign the services without the County's written approval.
- Section 2 The Bureau shall not hire any County employee for any of the required services without the County's written approval.
- Section 3 The parties agree that the Bureau is employed as an independent contractor and is not the employee or the agent of the County.
- Section 4 The Bureau shall hire personnel it deems appropriate who shall direct, assist and coordinate all phases of the activity of the Bureau.

ARTICLE X — INDEMNITY AGREEMENT

The Bureau shall indemnify and hold the County harmless from and against all actions, liabilities, demands, costs and expenses, including court costs and attorney fees, which may arise due to the negligent or intentional acts or omissions or Bureau or any of Bureau's employees or permissible subcontractors under this Agreement.

ARTICLE XI- INSURANCE REQUIREMENTS

The Bureau shall maintain at its own expense during the term of this Agreement, the following insurance:

1. Workers' compensation insurance with Michigan statutory limits and Employers Liability Insurance with a minimum of one hundred thousand (\$100,000.00) dollars each accident for any employee.
2. Comprehensive/commercial general liability insurance with a combined single limit of one million (\$1,000,000.00) dollars each occurrence for bodily injury and property damage. The County shall be named as "additional insured" on general liability policy with respect to the services provided under this Agreement.
3. Automobile liability insurance covering all owned, hired and non-owned vehicles with personal protection insurance and property protection insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of one million (\$1,000,000.00) dollars each accident for bodily injury and property damage.

Insurance companies, named insureds and policy forms shall be subject to the approval of the County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions, which reduce coverage provided to the County. Bureau shall be responsible to the County or insurance companies insuring the County for all costs resulting from both financially unsound insurance companies selected by Bureau and their inadequate insurance coverage. Bureau shall furnish the County Administrator with satisfactory certificates of insurance or a certified copy of the policy, if requested by the County Administrator.

No payments will be made to the Bureau until the current certificates of insurance have been received and approved by the Administrator. If the insurance as evidenced by the certificates furnished by the Bureau expires or is cancelled during the term of the Agreement, services and related payments will be suspended. Bureau shall furnish the County Administrator's Office with certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this Agreement. Certificates shall be addressed to the County Administrator P.O. Box 8645, Ann Arbor, Michigan 48107 and shall provide for 30 day written notice to the certificate holder of cancellation of coverage.

ARTICLE XII - LIVING WAGE

The parties understand that the County has enacted a Living Wage Ordinance that requires covered vendors who execute a service or professional service contract with the County to pay their employees under that contract, a minimum of either \$10.88 per hour with benefits or \$12.75 per hour without benefits. Contractor agrees to comply with this Ordinance in paying its employees. Contractor understands and agrees that an adjustment of the living wage amounts, based upon the Health and Human Services poverty guidelines, will be made on or before April 30, 2003 and annually thereafter which amount shall be automatically incorporated into this contract. County agrees to give Contractor thirty (30) days written notice of such change. Contractor agrees to post a notice containing the County's Living Wage requirements at a location at its place of business accessed by its employees

ARTICLE XIII - COMPLIANCE WITH LAWS AND REGULATIONS

The County and Bureau agree to comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE XIV - INTEREST OF BUREAU AND COUNTY

The Bureau represents that it has no interest, which would conflict with the performance of services required by this Agreement. The Bureau also represents that, in the performance of this Agreement, no officer, agent, employee of Washtenaw County, or member of its governing bodies, may participate in any decision relating to

this Agreement which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph shall not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 or the Public Acts of 1978, whichever is applicable.

ARTICLE XV - CONTINGENT FEES

The Bureau represents that it has not employed or retained any company or person, other than bona fide employees working solely for the Bureau, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Bureau, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach of this representation, the County may cancel this Agreement without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due to the Bureau.

ARTICLE XVI — EQUAL EMPLOYMENT OPPORTUNITY

The Bureau shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the Bureau).

The Bureau shall take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicants and the treatment of employees. Affirmative action will include, but not limited to: employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Bureau agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Bureau, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XVII- EQUAL ACCESS

The Bureau shall provide the services set forth in Article I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XVIII- OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by either party. During the performance of the services, the Bureau will be responsible for any loss of or damage to the documents

while they are in its possession and must restore the loss or damage at its expense.

ARTICLE XIX - RETURN OF FUNDS

If the Bureau dissolves or ceases to do business for any reason, the Bureau shall deliver to the County all funds of the Bureau remaining on hand, if any, after discharge and payment of all debts or other obligations incurred while this Agreement (or a predecessor Agreement) was in force; and, in addition, any removal of personal property belonging to the Bureau that was financed or made available through Accommodation Tax revenue.

ARTICLE XX - TERMINATION OF CONTRACT

Termination without cause. Either party may terminate the contract by giving six (6) months written notice to the other party.

ARTICLE XXI - PRACTICE AND ETHICS

The parties will conform to all the applicable code of ethics of their respective national professional associations.

ARTICLE XXII- CHANGES IN SCOPE OR SCHEDULE OF SERVICES

Changes mutually agreed upon by the County and the Bureau will be incorporated into this Agreement by written amendments signed by both parties.

ARTICLE XXIII - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ARTICLE XIV - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

ANN AROBR AREA CONVENTION
AND VISITORS BUREAU

WASHTENAW COUNTY

By: _____
Mary Kerr (DATE)
President

By: _____
Rolland Sizemore, Jr. (DATE)
Chair, Board of Commissioner

APPROVED AS TO FORM:

ATTESTED TO:

By: _____
Curtis N. Hedger (DATE)
Office of Corporation Counsel

By: _____
Lawrence Kestenbaum (DATE)
County Clerk/Register of Deeds