

**AGREEMENT BETWEEN THE CITY OF CORPUS CHRISTI AND  
CORPUS CHRISTI CONVENTION AND VISITORS BUREAU FOR USE OF THE  
CONVENTION EVENTS FUND**

**(HOTEL OCCUPANCY TAX REVENUE  
RECIPIENT AGREEMENT)**

This Hotel Occupancy Tax Revenue Recipient Agreement (“**Agreement**”) is made between the City of Corpus Christi, a Texas home-rule municipal corporation (“**City**”), acting through its duly authorized City Manager or his designee (“**City Manager**”), and the Corpus Christi Convention and Visitors Bureau, (“**Recipient**”).

Whereas, City desires to encourage conventions and events that promote the convention and hotel industry within the City of Corpus Christi, in accordance with Chapter 351 of the Texas Tax Code;

Whereas, the City has included in its annual budget hotel occupancy tax funding for the Convention Events fund (“**the Fund**”);

Whereas, the parties desired to use the Fund to reimburse expenses for those conventions and events that serve to promote tourism and the convention and hotel industry within the City of Corpus Christi;

Now, therefore, City and Recipient agree as follows:

**I. Purpose.** The City desires to utilize funds from the City’s Convention Events Fund in the City FY 2014-2015 operating budget to reimburse Recipient for expenses authorized by the Texas Tax Code Section 351.101 (a) (3) for the events and uses listed on **Exhibit A**, which is attached and incorporated for all purposes. The requested amounts of reimbursement out of the Fund for Fiscal Year 2014-2015 are also provided on Exhibit A.

**II. Term.** This Agreement commences on the date of execution by the City and terminates on September 30, 2015. This Agreement may be extended for additional one-year terms by written agreement of the City Manager and Recipient to provide reimbursement for additional Eligible Activities up to the amount approved in the City’s annual budget for the Convention Center Incentives fund. The continuation of this Agreement beyond the current City fiscal year is subject to the City’s annual budget process and annual appropriation of funds.

**III. City’s Duties.** For the Initial Term, subject to Recipient’s compliance with the terms and conditions of this Agreement and annual appropriation of funds, City agrees to reimburse Recipient out of the Convention Events Fund up to each amount listed on Exhibit A under the “CEF Requested” column, for each specific event listed on Exhibit A.

**IV. Recipient’s Duties- Eligible Activities.** Requests for reimbursement of funds by Recipient are limited to those activities that, without exception, meet all of the following requirements, herein referred to as “Eligible Activities”:

(A) advertising, conducting solicitations and promotional programs in accordance with Section 351.101(a)(3) of the Texas Tax Code to attract tourists and convention delegates or registrants to the municipality or its vicinity; and

(B) the funds will be used to promote both tourism and the convention and hotel industry within the City of Corpus Christi in accordance with Section 351.101(a) of the Texas Tax Code; and

(C) the activities and approved uses of the funds reimbursed under this Agreement are described on the attached and incorporated **Exhibit A**.

**V. Promotion of Tourism and the Convention and Hotel Industry.** Recipient must actively promote tourism to the City and the City's hotel and convention industry as a goal of Recipient's activities.

**VI. Annual Report.** Recipient must submit to the City's Assistant City Manager of General Government & Operations Support ("ACM") an annual report ("Report"), no later than thirty (30) days following the end of each fiscal year. The ACM, or his designee, shall review this Report to verify whether the funding provided to Recipient was spent in accordance with the requirements in this Agreement. The Report must include the following criteria in addition to verification documentation requested by the ACM: Recipient must submit to the City a written estimate of the number of attendees that reside outside the territorial limits of the City of Corpus Christi that attended the conventions/events identified on the Exhibit A.

**VII. Records Retention.** Recipient must at all times during the term of this Agreement, and for four (4) years following the expiration of the Agreement, keep true, accurate, complete, and auditable records. Recipient agrees to make records of these expenditures available for review on request of the ACM or designee.

**VIII. Disbursement of Funds.** Recipient understands and agrees that payment by the City of funds under this Agreement is contingent upon Recipient's full compliance with the requirements of this Agreement and Recipient's submittal of reimbursement request documentation. Recipient understands and agrees that disbursement of these funds under this Agreement creates a fiduciary duty in the Recipient. Should the ACM determine within four (4) years from effective date of this Agreement that Recipient has failed to comply with the requirements contained in this Agreement, all funds must be repaid to the City.

**IX. Unexpended funds.** Upon termination of this Agreement, the City has no obligation to reimburse Recipient any amounts.

**X. Termination for non-appropriation of funds.** The continuation of this Agreement beyond the current fiscal year is subject to the City's annual budget process. If sufficient funds are not appropriated to continue the agreement in the upcoming fiscal year, then this agreement shall be terminated upon notice to Recipient.

**XI. Advertising.** Recipient must recognize the City of Corpus Christi as a contributor on all advertisements and publications regarding Recipient's Eligible Activities. Recipient must provide ACM with a copy of all Recipient-sponsored advertising and promotion materials regarding its Eligible Activities.

**XII. Modifications and Waivers.** No provision of this Agreement may be altered, changed, modified, or waived.

**XIII. Relationship between Parties.** Nothing in this Agreement shall constitute a partnership, joint venture, or principal-agent relationship between the parties.

**XIV. Compliance with Laws.** Recipient shall observe and comply with all applicable laws, ordinances, regulations and rules of the Federal, State, Country and City governments, in particular the provisions of Texas Tax Code Chapter 351 governing use of hotel occupancy tax, a copy of which is attached as **Exhibit B**. This Agreement is subject to applicable provisions of the City Charter and the City Code of Ordinances.

**XV. Non-discrimination.** Recipient shall not discriminate, or permit discrimination against any person or group of persons, as to employment or in the provision of services, activities, and programs. Discrimination as it pertains to this section includes discrimination on the basis of race, religion, national origin, sex, disability, or age, or in any other manner that is prohibited by the laws of the United States or the State of Texas. ACM retains the right to take action deemed necessary by ACM to enforce this non-discrimination covenant. Violation of this provision will result in the immediate termination of this Agreement.

**XVI. Indemnity.** *Recipient hereby fully agrees to indemnify and hold harmless the City of Corpus Christi, its officers, employees, representatives, licensees, and invitees (“indemnitees”) against any and all liability, damage, loss, claims, demands, and actions of any nature due to personal injuries including, but not limited to, workers’ compensation and death claims, or any property loss or damage of any kind, that arises out of or is in any manner connected with, caused by, either proximately or remotely, wholly or in part, or claimed to have arisen out of, been connected with, or have been caused by, any act or omission, negligence, or misconduct on the part of Indemnitees or Recipient, or Recipient’s agents, servants, employees, guests, contractors, patrons, licensees, or invitees participating in or observing Recipient’s Eligible Activities. Recipient further agrees to indemnify and hold harmless Indemnitees in any situation in which injury or damage results from a violation by the Indemnitees or Recipient, or Recipient’s agents, servants, employees, guests, contractors, patrons, licensees, or invitees, of any law, statute, ordinance, or government order of any kind. Further, Recipient will indemnify and hold harmless Indemnitees where injury or damage results or arises out of the exercise or rights or performance of obligations created by this Agreement.*

*These terms of indemnification are effective regardless of whether said injuries or damages result from the sole negligence, contributory negligence, or concurrent negligence of Indemnitees. Recipient must, at its own expense, investigate all claims and demands, attend to their final resolution either by settlement or otherwise, defend all actions with counsel satisfactory to Indemnitees, and pay all costs and expenses related to such actions on account of liability, damage, loss, claims, demands, or actions, including attorney fees.*

**XVII. Termination.**

(A) The City may terminate this Agreement upon fourteen (14) days written notice for any of the following reasons and require Recipient to reimburse the City all funds awarded under this Agreement:

(1) Any violation by Recipient of section XIV or XV of this agreement.

(2) If the ACM has determined that funds were used for purposes other than those allowed under Section 351.101(a)(3) of the Tax Code, and require Recipient to reimburse the City all funds award.

(3) Due to Recipient's use of funds to pay for activities other than those qualifying as Eligible Activities under section IV of this Agreement. ACM has the sole discretion to make the determination that funds were used for activities other than those qualifying as Eligible Activities.

(4) Recipient's failure to cure any default of any provision of this Agreement after notice and 30 days opportunity to cure.

(B) **Recipient** may terminate this Agreement without cause upon fourteen (14) days written notice to City. If Recipient chooses to terminate the Agreement, Recipient must repay all funds awarded, whether those funds were expended on Eligible Activities or not.

**XVIII. Severability.** If any term or provision of this Agreement or its application to a person or circumstance is determined to be illegal, unenforceable or invalid, the remainder of this Agreement will not be affected by that illegality, unenforceability, or invalidity. To the extent possible, similar legal, valid, and enforceable terms will automatically be substituted for those that are found to be illegal, invalid, and unenforceable.

**XIX. Notices.** All notices, demands, requests, or replies ("communications") provided for or permitted under this Agreement by either party must be in writing and must be delivered by one of the following methods: (1) personal delivery; (2) deposit with the United States Postal Service via certified or registered mail, return receipt requested, postage prepaid. Notice deposited with the United States Postal Service in the manner described above will be deemed effective two (2) business days after deposit with the United States Postal Service. All communications must be made to:

**If to City:**

City of Corpus Christi  
Assistant City Manager for General Government & Operations Support  
P. O. Box 9277  
Corpus Christi, TX 78469-9277

**If to Recipient:**

Corpus Christi Convention and Visitors Bureau  
101 N. Shoreline Blvd., Ste. 430  
Corpus Christi, TX 78401

Either party may change the address to which notice is sent by providing notice as described above. Recipient must notify City of an address change within thirty (30) days after Recipient's address has changed.

**XX. Waivers.** The failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, will not be deemed a waiver by said party of any of its rights as enumerated in this Agreement. No waiver of any covenant or condition or breach of any covenant or condition of this Agreement by either party at any time, express or implied, will be taken to constitute a waiver of any subsequent breach of the covenant or condition. Notwithstanding any indulgence of any breach by the Recipient of the provisions of this Agreement, it is expressly understood that the City may at any time avail itself of its remedies under this Agreement, including the right to terminate the Agreement on account of breach or default.

**XXI. Entirety.** This Agreement and all exhibits attached constitute the entire and sole agreement between the parties regarding the subject matter described in this Agreement. No other written documents or oral representations will have any force or effect on the subject matter of this Agreement.

**XXI. Captions.** The captions contained in this Agreement are not a part of this Agreement and do not in any way affect or alter the terms of this Agreement.

**XXII. Assignment.** This Agreement may not be, in whole or in part, assigned or transferred directly or indirectly without prior written consent of City.

Executed in duplicate, each of which will be considered an original, on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF CORPUS CHRISTI**

\_\_\_\_\_  
Ronald L. Olson, City Manager

**APPROVED:** \_\_\_\_\_, 2015

\_\_\_\_\_  
Lisa Aguilar, Assistant City Attorney  
For City Attorney

CORPUS CHRISTI CONVENTION AND VISITORS BUREAU

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**EXHIBIT A**

CVB / CEF Financial Commitment Information



**DEFINITE  
FISCAL YEAR OCT 2014 - SEPT 2015**

NAME OF CONVENTION	Delegates	Number of Room Nights		Commitment Made (Mo/Yr)	Convention Date (Mo/Yr)	CVB	CEF (Requested)	Economic Impact	CEF Fund Usage
		Peak	Total						
Corpus Christi BikeFest	15,000	2,050	5,000	1/2014	10/2014	\$64,316	\$16,950	\$5,437,500	Off-set Conv. Ctr. cost
CC Challenge (Bal due Dec. for 2014 event)	4,000	750	2,000	4/2012	11/2014		\$70,000	\$1,450,000	
Texas Farm Bureau	800	500	1,305	10/2013	12/2014		\$5,000	\$290,000	Off-set Conv. Ctr. cost
SkillsUSA	5,000	1,300	3,800	8/2010	3/2015		\$12,500	\$1,812,500	Off-set Conv. Ctr. & Trans. cost
National Guard Assoc. of Texas	1,500	500	1,382	7/2010	3/2015		\$10,500	\$543,750	Off-set Conv. Ctr. cost
Powerlifting	1,000	405	1,010	3/2013	3/2015		\$3,500	\$362,500	Off-set Conv. Ctr. cost
FCCLA State Conv. (Type A Funds Arena \$25K)	4,000	1,000	2,725	10/2009	4/2015		\$14,600	\$1,450,000	Off-set Conv. Ctr. cost
VPPPA	2,000	880	3320	8/2012	5/2015		\$15,000	\$725,000	Off-set Conv. Ctr. cost
United Methodist Church	1,300	650	2,030	7/2007	6/2015		\$5,000	\$471,250	Off-set Conv. Ctr. & Trans. cost
AWBD (ABC Est. \$24K)	1,500	960	3,000	9/2013	6/2015	\$9,550	\$14,450	\$543,750	Off-set Conv. Ctr. cost
Texas Shrine Association	3,000	850	3,000	3/2013	6/2015		\$10,000	\$1,087,500	Off-set Conv. Ctr. cost
Texas FFA (Type A Funds Arena \$25K)	7,500	2,100	7,530	9/2009	7/2015		\$12,500	\$1,359,375	Off-set Conv. Ctr. cost
CC Challenge (1st Pmt. Due 8/15 for '15 Event)	4,000	750	2,000	4/2012	11/2015		\$70,000	\$1,450,000	
<b>Total</b>						<b>\$73,866</b>	<b>\$260,000</b>	<b>\$16,983,125</b>	

## EXHIBIT B

Texas Tax Code

### § 351.101. USE OF TAX REVENUE.

a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity; and

\* \* \* \* \*

(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with



revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

(d) A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

(e) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(f) Municipal hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(g) Nothing in this section shall prohibit any private entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section 351.101(a)(4). A subgrantee shall:

- (1) at least annually make periodic reports to the governing body of its expenditures from the tax authorized by this chapter; and
- (2) make records of these expenditures available for review to the governing body or other person.