

MANAGEMENT AGREEMENT
WASHTENAW COUNTY CONVENTION AND VISITORS BUREAU, INC.

AGREEMENT is made this 16th day of December , 2015, 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 WASHTENAW COUNTY CONVENTION AND VISITORS BUREAU, INC. (formerly known as the ANN ARBOR AREA CONVENTION AND VISITORS BUREAU, INC.) a Michigan non-profit corporation (corporate identifier 785-104) located at 315 W. Huron, Suite 340, Ann Arbor, Michigan 48103 ("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 County of Washtenaw and to serve visitors to the community; and

WHEREAS, the County pursuant to its Accommodation Tax Ordinance ("Ordinance") and through the Economic Development Coordinating Committee (EDCC) 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 an aggressive marketing and sales program, stressing the advantages of all of Washtenaw County.
- b. Prepare and distribute as widely as possible, printed and/or electronic materials regarding convention and tourism opportunities in Washtenaw County.
- c. Secure conventions, through participating in bidding, travel and other necessary means.
- d. Assist in convention arrangements.
- e. Provide education and tourism information throughout the County.
- f. Assist in planning and development of new points of interest and activities.

- g. Create, develop and maintain a sports commission for the purpose of securing sports related events resulting in positive economic activity for the county.
- h. Promote the destination to overnight visitors to enhance the economic impact within the 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 retain 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 on or before the first business day of each month following the month of collection to the Bureau.
- b. Each quarter the Bureau shall submit financial operating statements for the preceding months to the County and the EDCC.

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 arrangement shall be reconsidered on a quadrennial basis, aligning with the County's budget (beginning in 2017, if necessary), should a large capital project become part of the Bureau's strategic plan.

The County's share of the proceeds plus interest and penalties collected under the Ordinance shall be kept in a separate account from the County's General Fund. Each year, based upon the audit for the prior calendar year when approved by the Board of Commissioners, the County shall determine the total actual expenses incurred by the County for enforcement of the Ordinance, which shall not include any programmatic expenses. These expenses shall be deducted from the amount in the Ordinance Fund for the previous year. For the first year of this contract, ninety percent of any funds remaining in the Ordinance Fund after such deductions shall be distributed to the Bureau. Funds accrued in 2015 and 2016 shall be distributed under this methodology. The parties shall negotiate and agree upon the percentage of funds in the Ordinance Fund to be annually returned to the Bureau beginning in year two of this Agreement and carrying through for the remainder of the Agreement. Should the parties fail to reach an agreement on this issue, the funds shall remain in the Ordinance Fund until such time as a consensus can be reached.

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 EDCC shall have the authority as stated in the Ordinance.

ARTICLE V - COLLECTIONS

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

ARTICLE VI – REPORTING OF CONTRACTOR

- Section 1 The Bureau shall submit quarterly program and financial reports to the Economic Development Coordinating Committee regarding its efforts to promote the County as a destination for overnight visitors.
- Section 2 The Bureau shall make an annual report to the EDCC and the Board of Commissioners regarding its board membership composition, budget, and programming. As provided in Section VIII, the budget for any year shall be submitted by October 1 of the previous year for approval.
- Section 3 By October 1, 2016 the Bureau shall submit to the Board of Commissioners a strategic plan that is (a) designed to align with the County's quadrennial outcomes-oriented budget; and (b) articulates subarea marketing strategies for specific communities, including the Ypsilanti Community, that ensures investments are being used to develop and promote communities' distinctive character.
- Section 4 All reports, estimates, memoranda and documents submitted by the Bureau must be dated and bear the Bureau's name.
- Section 5 All reports made in connection with the services provided hereunder shall be subject to review and final approval by the County Administrator.
- Section 6 The County may review and inspect the Bureau's activities during the term of this Agreement.
- Section 7 If applicable, the Bureau will submit a final, written report to the County Administrator.
- Section 8 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 VII – TERM

This Agreement shall begin on January 1, 2016 and end on December 31, 2025.

ARTICLE VIII – BUDGET AND OPERATING STATEMENT

The Bureau shall submit its proposed budget for the following year on or before October 1 of each year to the EDCC for its review and recommendation to the County's Board of Commissioners for approval. 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 EDCC 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 IX- 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 an extension of time for completing the financial operating statement referenced in Article VIII and the audit to assist in reducing costs.

ARTICLE X – 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.
- Section 5 Subject to its normal hiring procedures, the Bureau has offered, or will offer before January 15, 2016, comparable employment to those staff (other than the President and Chief Executive Officer) members employed with the Ypsilanti Area Convention and Visitors Bureau ("YACVB") who choose to interview and accept employment with the Bureau on the same terms and conditions as other bureau employees so that the significant talent, experience and know-how among those employees remains available to further the County's interests.

ARTICLE XI – MEASURES TO INCREASE EFFICACY

To promote a single and unified purpose, to permit an expansion of the breadth and depth of marketing and sales efforts and to benefit the County generally, the Bureau undertakes the following obligations.

- Section 1. In connection with its undertaking to develop a countywide strategic plan for marketing the advantages of Washtenaw County, the Bureau shall develop strategies specifically for the Ypsilanti Community and for the Out-County Communities. For purposes of this Agreement, the term “Ypsilanti Community” shall mean the City of Ypsilanti, Ypsilanti Township and Superior Township and the term “Out-County Communities” shall mean the communities of Washtenaw County excluding the City of Ann Arbor and excluding the Ypsilanti Community.
- Section 2. In connection with its undertaking to develop a strategy specifically for the Ypsilanti Community, the Bureau shall annually allocate human and financial resources equivalent to at least 25% of the Bureau’s anticipated annual accommodations tax revenues to support programming in the Ypsilanti Community. Additionally, the Bureau shall maintain a staffed office in the Ypsilanti Community.
- Section 3. In connection with its undertaking to develop a strategy specifically for the Out-County Communities, the Bureau shall implement a Community Tourism Action Plan (CTAP), similar in scope and nature to the program previously implemented by the Ypsilanti Area Convention and Visitors Bureau, and shall annually utilize that portion of its fees equal, at least to the amounts utilized during 2015 for that program by the Ypsilanti Area Convention and Visitors Bureau. CTAP shall be allocated to Out-County Communities. The strategy for the Out-County Communities shall develop and promote each community’s distinctive character. The parties understand and agree that CTAP shall not be funded from the 25% of accommodations funding earmarked for Ypsilanti projects as referenced in the section above.
- Section 4. The Bureau will create and maintain a sports commission to support sports related tourism and marketing of the athletic facilities in the County.
- Section 5. The governing structure of the Bureau will provide that: (a) two members shall be Washtenaw County elected officials, who shall serve on the Executive Committee; (b) at least 25% of the total board membership shall be comprised of individuals who live or work in the Ypsilanti Community; (c) At least 25% of the total board membership shall be comprised of individuals who live or work in the City of Ann Arbor; and (d) at least 25% of the total board membership shall be comprised of individuals who live or work in all other Washtenaw County communities.
- Section 6. The Bureau may establish offices, do business under assumed names and use other names, slogans and identities to pursue its mission. The Bureau shall be in charge of the development of strategies to best further its goals and missions.

Section 7. The Bureau will report annually to the Board of Commissioners on its efforts to meet these undertakings and goals described in this Article XI.

ARTICLE XII – 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 of Bureau or any of Bureau's employees or permissible subcontractors under this Agreement.

ARTICLE XIII- 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 XIV – 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 \$12.00 per hour with benefits or \$14.07 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 annually 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 XV – 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 XVI – 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 XVII – 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 XVIII – 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 XIX – 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, gender identity, gender expression, marital status, physical handicap, or age.

ARTICLE XX- OWNERSHIP OF DOCUMENTS AND PUBLICATION

All reports, budgets and plans delivered to the EDCC, the County Administrator or the County Board of Commissioners 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 XXI – 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 personal property belonging to the Bureau that was financed or made available through Accommodation Tax revenue shall be sold in a commercially reasonable manner and the proceeds delivered to the County.

ARTICLE XXII – TERMINATION OF CONTRACT

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

ARTICLE XXIII – PRACTICE AND ETHICS

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

ARTICLE XXIV – 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 XXV – 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 XVI – EXTENT OF CONTRACT

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

WASHTENAW COUNTY CONVENTION
AND VISITORS BUREAU

WASHTENAW COUNTY

By: Mary Kerr 12/14/15
(DATE)
President and Chief Executive Officer

By: [Signature] 12.14.15
(DATE)
Chair, Board of Commissioner

APPROVED TO FORM:

ATTESTED TO:

By: Curtis N. Hedger 12-11-15
(DATE)
Office of Corporation Counsel

By: [Signature] 12/16/15
(DATE)
County Clerk/Register of Deeds