



**AGREEMENT BETWEEN  
CITY OF STONECREST, GEORGIA, AND  
DEKALB CONVENTION & VISITORS BUREAU, INC.**

THIS AGREEMENT by and between the City of Stonecrest, Georgia, a political subdivision of the State of Georgia, acting by and through its duly elected City Council (hereinafter sometimes referred to as the "City"), and the DeKalb Convention & Visitors Bureau, Inc., a non-profit corporation, chartered in the State of Georgia, acting by and through its duly elected Board of Directors (hereinafter sometimes referred to as "Corporation").

**WITNESSETH:**

WHEREAS, the City Council of the City of Stonecrest, Georgia, has levied a tax of 5% pursuant to the provisions of O.C.G.A. § 48-13-51(a)(3) (the "Tax"); and

WHEREAS, the provisions of O.C.G.A. § 48-13-51(a)(3) requires that the amount of the Tax in excess of 3% (the "Expenditures") be expended for certain purposes stated therein, including but not limited to, promoting tourism, conventions, and trade shows; and

WHEREAS, the provisions of O.C.G.A. § 48-13-51(a)(3) further require that the Expenditures be made only through a contract or contracts with certain entities stated therein, including but not limited to, destination marketing organizations and private sector nonprofit organizations; and

WHEREAS, the Corporation is a destination marketing organization and a private sector nonprofit organization as defined in O.C.G.A. § 48-13-50.2(1) and (3) and meets all other necessary and reasonable requirements to qualify as an appropriate entity to make the Expenditures of the Tax; and

WHEREAS, the Corporation has covenanted and agreed that it shall make the Expenditures of the Tax in accordance with an established budget of the funds (the "Budgeted Funds") which budget and any amendments or modifications thereof shall be subject to the prior approval of the City.

NOW, THEREFORE, for and in consideration of the mutual obligations herein assumed, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**I.**

City hereby agrees that the Corporation shall make Expenditures of the Tax in the amounts approved by the City as Budgeted Funds, and the Corporation hereby agrees to receive and make the Expenditures of the Tax in accordance with the terms and conditions hereinafter set forth. The general nature of the Corporation's activities shall be as set forth in Exhibit A attached hereto and incorporated herein by this reference.

**II.**

No later than August 1, 2017 and each December 1 thereafter during the term of this Agreement, Corporation agrees to submit a budget acceptable to the City showing the planned expenditure of any funds to be received from the City and to maintain accurate records of the expenditure and disposition of such funds, such records to be maintained in accordance with

- c. "Umbrella" or "Excess" coverage cannot be used to reach the limits stated in subparagraphs "a" and "b" above.
  
- B. Certificates of Insurance must be executed in accordance with the following provisions:
  - 1. Certificates to contain policy number, policy limits, and policy expiration date of all policies issued in accordance with this Agreement;
  - 2. Certificates to contain the locations and operations to which the insurance applies;
  - 3. Certificates to contain Corporation's protective coverage for any Subcontractor's operations;
  - 4. Certificates to contain Corporation's contractual insurance coverage;
  - 5. Certificates are to be issued to:
    - City of Stonecrest, Georgia
    - 3120 Stonecrest Blvd
    - Stonecrest, GA 30038
  - 6. Certificates referred to in subparagraph "5." above must be mailed to:
    - City of Stonecrest, Georgia
    - 3120 Stonecrest Blvd
    - Stonecrest, GA 30038
  
- C. Corporation shall be wholly responsible for obtaining certificates of insurance showing coverage as set forth above for all Subcontractors who are engaged in work covered by this Agreement.
  
- D. Corporation agrees to carry statutory Workers' Compensation Insurance and to have all Subcontractors likewise carry statutory Workers' Compensation Insurance, or provide proof that such coverage is not required under state law.

V.

The City agrees that it will pay to Corporation an amount equal to the Tax collected in excess of 3%. Corporation will be paid within fifteen (15) calendar days following the end of the

month in which the money is collected. The City will retain an administrative charge of three percent (3%) of each total monthly payment. Any penalties assessed against hotel-motels for late payment of the Tax will be retained by the City.

VI.

With respect to the revenues anticipated to be received by the Corporation from DeKalb County and from the cities of Tucker, Doraville, Chamblee, ~~Dunwoody~~<sup>2</sup>, Stonecrest, and Brookhaven, Corporation agrees to expend such revenues in an equitable fashion and within the purpose and intent of O.C.G.A. § 48-13-50, et. seq., to promote, attract, stimulate, and develop conventions, tourism, and trade shows in the county and municipalities in accordance with the revenues received from each such jurisdiction.

VII.

The City designates its City Manager as its point of contact, coordinator, and liaison person with Corporation in the execution of the terms of this Agreement.

VIII.

Subject to Paragraph X below, this Agreement may be modified or amended by mutual agreement of the parties; provided, however, that no waiver, modification, or amendment of any term, condition, or provision of this Agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the parties' authorized representatives. Renewal of this Agreement may be accomplished through the process of amendment or modification of any of the terms of this Agreement as provided for herein.

VIII.

Subject to Paragraph X below, this Agreement may be terminated with or without cause by either party hereto by the giving of ninety (90) days prior written notice of such termination.

IX.

This Agreement will remain in effect from April 1, 2017 until midnight of December 31, 2017, unless it shall sooner have been terminated, modified, or amended in the manner set forth in it. Thereafter, this Agreement shall be automatically renewed on January 1 of each succeeding calendar year during which the Tax is collected by the City unless a party to it delivers written notice to the other party of such party's intent not to renew this Agreement at least ninety (90) days prior to the end of a calendar year. Except to the extent specifically agreed upon by the parties, any modification or termination of this Agreement in the manner set forth above or any other modification or termination of this Agreement for whatever cause or under whatever circumstances, shall not relieve or impair the obligations of either party arising prior to the effective date of any such modification or termination. Without limiting the generality of the foregoing, the provisions of Paragraphs I, II, III, V, and VI of this Agreement shall survive its termination until the accomplishment of all the requirements imposed by those paragraphs existing as of the date of termination of this Agreement. By way of illustration, the Corporation shall continue to be obligated to devote any and all non-expended funds received from the City, and not returned to the City in accordance with the provisions of this Agreement, for the

purposes provided in this Agreement and the City shall continue to be obligated to advance funds under Paragraph V of this Agreement for the payment of actual costs incurred or committed to by Corporation prior to the termination of this Agreement.

X.

This Agreement shall be executed in an original and two (2) copies, any one of which may be used for any purpose for which the original may be used.

XI.

For the purposes of this Agreement, any notices required to be sent to the parties to it shall be mailed to the following respective addresses:

CORPORATION

DeKalb Convention & Visitors  
Bureau, Inc.  
1957 Lakeside Parkway, Suite 510  
Tucker, Georgia 30084

CITY

City of Stonecrest  
3120 Stonecrest Blvd  
Stonecrest, GA 30038  
Attention: Mayor

XII.

It is the intent of the parties that nothing contained in this Agreement shall be interpreted to assign to Corporation any status under this Agreement other than that of an independent contractor.

XIII.

This Agreement shall be deemed to have been made and performed in DeKalb County, Georgia. For the purposes of venue, all suits or causes of action based on, or arising out of, this Agreement shall be brought in the Courts of DeKalb County, Georgia.

XIV.

The parties agree that the validity and interpretation of, and all rights and obligations created by, this Agreement shall be governed, controlled, and defined by and under the laws of the State of Georgia.

The parties hereto have affixed their hands and seals this 26<sup>th</sup> day of August, 2017.

[Signature page follows]

DEKALB CONVENTION & VISITORS  
BUREAU, INC.

BY: James Sisonbi  
President

ATTEST:

Kathryn H. Johnson  
Secretary

(SEAL)

CITY OF STONECREST

BY: Paul W. King  
Title: Mayor

ATTEST:

Dhenda B. James  
City Clerk

(SEAL)

APPROVED AS TO FORM:

Ilkum  
City Attorney

## EXHIBIT A

### PURPOSE AND NATURE OF AGREEMENT

City Purpose. The City wishes to promote tourism, conventions, and trade shows and wishes to advertise, promote, and encourage the use of all facilities and businesses relating to convention, tourism, and trade shows, both public and private within the City, thereby increasing the City's revenue and creating employment opportunities within the City.

Corporation Purpose. The Corporation is a nonprofit organization under the Georgia Nonprofit Corporation Code and has been recognized as exempt from income taxation under Section 501(c)(6) of the Internal Revenue Code. Through its activities, it is anticipated that the Corporation will plan, conduct, or participate in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows to and within the City. Such activities are expected to be broad-based and to benefit a wide range of businesses and are not to benefit the City's government per se. Such activities are related to and consistent with the performance of the Corporation's tax exempt activities.

Nature of Expenditures. It is understood and agreed that the Expenditures are to be made by the Corporation in strict compliance with the provisions of O.C.G.A. § 48-13-50, et seq., and for the purpose of promoting conventions, tourism, and trade shows within the City. The activities of the Corporation under this Agreement do not constitute the rendition of services to the City, but rather the Agreement constitutes the specified manner of compliance with the above statute for the levying of the Tax and the making of the Expenditures.

Intentions of the Parties. It is the understanding of the parties that the Hotel/Motel tax funds when received by the Corporation will not be taxable income under either the United States Internal Revenue Code or the Income Tax Code of the State of Georgia. The Corporation agrees to notify the Internal Revenue Service and the Georgia Department of Revenue (if necessary) of this agreement and to seek confirmation of this understanding. If necessary, the parties agree to amend and modify this agreement in order to preserve the tax exempt status of the Corporation and the tax exempt status of the funds covered by this agreement.

### STATEMENT OF SERVICES

Corporation agrees to operate a convention and visitors bureau which will enable DeKalb County, the cities within DeKalb County, and the hotels and motels therein to market the county as a destination for specific inbound groups, increase the occupancy rate of hotel and motel rooms, and promote the development of facilities designed to enhance the growth of the travel, tourism, convention, and trade show industry in DeKalb County and its cities. Corporation shall also perform the following:

1. Corporation will hire and direct staff members whose duties will include the following:
  - a. Develop and implement marketing plans for convention, tourism, and trade show sales.

- b. Produce and distribute publications in support of facilities and attractions in the City, DeKalb County, and its other cities.
- c. Implement a tourism program to increase tourist visitation and spending in the City, DeKalb County, and its other cities.
- d. Make contact with meeting planners and other groups to provide them with information about facilities located in the City, DeKalb County, and its other cities that are available to host their events and make appropriate referrals of such groups to such facilities.

2. Corporation will require and assure performance of its Annual Marketing Plan, which is on file with the Corporation and which is incorporated herein by this reference.

3. Corporation will (a) submit monthly programmatic and financial progress reports indicating its accomplishment of the above to the City not later than the 15th day of each month for the preceding month and (b) report its accomplishment of the above in the Corporation's annual report and provide copies of all such publications to designated City personnel and to the City Council.

4. Corporation will use its best efforts to ensure that all funds received under this Agreement are expended for the purposes set forth in this Agreement.

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