

**CITY OF ARANSAS PASS
AND
ARANSAS PASS CHAMBER OF COMMERCE**

PUBLICITY AND TOURISM AGREEMENT

AN AGREEMENT CONCERNING THE USE OF
FUNDS FROM THE HOTEL OCCUPANCY TAX

STATE OF TEXAS

**COUNTIES OF NUECES, ARANSAS
AND SAN PATRICIO**

This Agreement is made the _____, by and between the City of Aransas Pass, a municipal corporation of the State of Texas, hereinafter called “City”, and the Aransas Pass Area Chamber of Commerce, a private non-profit association, hereinafter called “Chamber”, acting and through duly elected officers.

SECTION 1. LEGAL AUTHORITY

1.1 The City of Aransas Pass collects a local hotel occupancy tax authorized by Section 351 of the Texas Tax Code (“Act”). Pursuant to the Act, the City expends the funds collected for the purpose of advertising and encouraging the growth of tourism activity in the City as outlined in Article 11 Hotel Occupancy Tax, Sec 27-20 to Sec 27-25 of the City of Aransas Code of Ordinances (“Code”).

SECTION 2. TERM OF AGREEMENT

2.1 Conditioned upon City Council approval, this Agreement shall become effective on the date the Agreement is executed by both parties and terminate September 30, 2019, the end of the fiscal year. Thereafter, the term will correspond with the City’s fiscal year beginning October 1 and ending September 30 of the following year conditioned upon the City Council approval. The Chamber budget will be submitted to the City in July prior to the City’s new budget year

SECTION 3. SERVICES TO BE PROVIDED

3.1 As Part of its obligation under the state statutes (Section 351.01) to use the local hotel occupancy tax funds for attracting and promoting tourism and hotel industry, the City of Aransas Pass hereby agrees to pay to the Chamber 70% of the money actually received by the City from the hotel occupancy tax, in consideration for the Chamber of Commerce advertising and promoting tourism for the visitor market from which the City of Aransas Pass derives direct tourist income benefit. The Chamber agrees that any hotel occupancy tax funds paid to the Chamber by the City shall be used in the following specific areas:

- (1) The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (2) Advertising and conducting solicitations and promotional programs to attract tourist and convention delegates or registrants to the municipality or its vicinity or
- (3) Advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums.
- (4) The encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drams, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photograph) , 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.

3.2 The Chamber agrees to conduct a continuing program of advertising and promotion for the purpose of attracting visitors, tourists, and conventions to the City of Aransas Pass by publishing and distributing brochures and community information packets, by advertising in various tourist publications and general media publication which are appropriate, by representing the City at travel shows and other such events, by participating with state and regional agencies in tourist development programs of benefit to the local area and to the City of Aransas Pass, and by using all appropriate means to increase the traveling public's awareness of the resort and recreational advantages of the City.

3.3 The Chamber further agrees that it will seek to achieve economic benefit for the City of Aransas Pass through all of such activities, that it will provide tourist- related information about the City of Aransas Pass upon request, and that it will serve as an advisory body to the City, on request, in matters related to expending the tourist-derived economy. Furthermore, the Chamber shall distribute information on all local accommodation establishments that pay hotel occupancy taxes to the City via an accommodation guide to be updated by the Chamber annually.

SECTION 4. INDEPENDENT CONTRACTOR

4.1 It is expressly understood and agreed by and between the parties that the Chamber is hired and engaged as an independent contractor and is not an officer, agent or employee of the City.

SECTION 5. MANAGEMENT OF FUNDS

5.1 The Chamber, on an annual basis, shall provide to the City, its budget for the upcoming year, said budget to be approved by the City Council in writing in advance of the release of any local hotel occupancy tax funds. It is understood and agreed by and between the parties that, upon budget approval by the municipality, a fiduciary duty is created in the Chamber with respect to the expenditure of occupancy tax revenue provided.

5.2 Thereafter, the Chamber shall provide to the City Council periodic reports, on the activities that are conducted to benefit the City of Aransas Pass, listing the expenditures made from revenue from the local hotel occupancy tax. In addition the Chamber shall provide City with an annual financial statement.

5.3 It is further agreed that the Chamber shall maintain a separate financial account of the hotel occupancy tax funds received from the City and may not commingle the funds with any other account. It is understood and agreed by and between the parties that, upon budget approval by the City, a fiduciary duty is created in the Chamber with respect to expenditure of the revenue provided.

5.4 The Chamber shall maintain complete and accurate financial records of each receipt and expenditure of the hotel occupancy funds and, upon request of the City, shall make the records available for inspection and review during normal business hours in accordance with the provisions of the Texas Public Information Act (Texas Government Code, Chapter 552)

5.5 Hotel occupancy funds may be spent by the Chamber for day-to-day operations including supplies, salaries, office rental , travel expenses and other administrative costs only, if such expenditures have been previously budgeted and approved by the City and if directly related to the promotion of tourism. The allocation of day-to-day operational costs is limited to 35% of hotel occupancy receipts funded by the City.

5.6 Hotel occupancy funds may be spent on Special Events only if the activity promotes overnight tourism or for the promotion of the Arts. Promotion for the Arts is limited to the allocation maximum of 15% of the hotel occupancy tax receipts funded by the City.

5.7 The Chamber shall submit an annual report of activities that will include itemized personnel costs by singular job descriptions. Such report and budget shall be provided not later than July 1st of each year for the next fiscal year.

The budget shall provide a financial plan and shall contain the following:

- (1) A budget message, explanatory of the tourism/promotional activity contracted, which message shall contain an outline of the plan of the activity.

and, in the following years, set forth the reasons for the salient changes from the previous year and any major budgetary revisions. Any subsequent budgetary revision exceeding 25% of any line item regarding tourism/promotional activity or 10% of the entire budget will require City Council approval. All items of expenses shall contain detailed narratives as to the basis of the expenditure.

SECTION 6. RETURN OF FUNDS UPON TERMINATION OF CONTRACT

6.1 Should this Agreement be terminated by either party hereto or by its own terms, and unless express agreement is otherwise made, the Chamber shall remit and return to the City, with a final accounting thereof, all unused and unspent hotel occupancy tax funds in its possession, within sixty (60) days from the date of such termination

SECTION 7. INDEMNIFICATION

7.1 The Chamber agree to and shall indemnify and hold harmless and defend the City of Aransas Pass, Texas, its officers, agents, and employees from any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of the City of Aransas Pass Chamber, its officers, agents and employees carried out in furtherance of this Agreement.

SECTION 8. INSURANCE

8.1 The Chamber shall maintain a comprehensive general liability insurance policy, and bodily injury insurance on all automobiles used in the operations embraced by this agreement in the amount of Two Hundred Fifty Thousand and No/100 (\$250,000) for each person and Five Hundred Thousand and No/ 100 (\$500,000) for each occurrence, and Ten Thousand and No/ 100 (\$10,000) property damage liability insurance for each occurrence. Said insurance policies shall name the City of Aransas Pass as an additional insured. Said policies, or duplicate originals thereof, must be filed with the City of Aransas Pass as an additional insured. Said policies, or duplicate originals thereof, must be filed with the City of Aransas Pass before any operations contemplated by this Agreement are begun. Said insurance shall be maintained with an insurance company or companies authorized to do business in the State of Texas. In addition, the Chamber shall provide workers compensation insurance coverage in accordance with State law.

SECTION 9. TERMINATION

9.1 If either party materially breaches this Agreement, the other party may terminate the Agreement by providing ninety (90) days written notice to the defaulting party. Should a dispute regarding the existence of a material breach, either party may request that the issue be presented to a licensed mediator.

SECTION 10. NON-RENEWAL

10.1 It is understood and agreed that the Chamber is not entitled to any right of automatic renewal of this Agreement for the ensuing year, or years, since such option rests exclusively with the City Council.

SECTION 11. NOTICE

11.1 All communications required by the Agreement between the City and Chamber shall be in writing and addressed to the attention of the City Manager or the President of the Aransas Pass Chamber of Commerce.

City of Aransas Pass
P O BOX 2000
Aransas PASs, TX 78336

Aransas Pass Chamber of Commerce
130 W. Goodnight Ave
Aransas Pass, TX 78336

SECTION 12. COMPLIANCE WITH LAWS

12.1 In performing its duties under this Agreement, the Chamber shall comply with the City of Aransas Pass Codes and Ordinances and all laws of the State of Texas.

SECTION 13. PROHIBITION AGAINST DISCRIMINATION

13.1 In the performance of this Agreement, the Chamber shall not discriminate against any employee or applicant for employment because of an individual's race, color, religion, national origin, sex or mental or physical disability. Proven Breach of this provision may be regarded as a material breach of this Agreement allowing for termination.

SECTION 14. CONTROLLING LAW

14.1 It is understood and agreed that in the event any provision of this Agreement is inconsistent with the requirements of the Act, or any other applicable State law, the requirements of the law will control and supersede the terms set forth herein.

SECTION 15. ENTIRE AGREEMENT

15.1 This Agreement constitutes the entire agreement between the parties, relative to the hotel occupancy tax funds made for the basis hereof.

IN THE WITNESS WHEREOF, the parties have hereunto set their hands in the duplicate originals, in the City of Aransas Pass, San Patricio County, Texas on this _____ day of _____ '2018.

CITY OF ARANSAS PASS

Ramiro Gomez, Mayor

ATTEST:

Mary Juarez, City Secretary

**ARANSAS PASS
CHAMBER OF COMMERCE**

Vic Medina, Chairman

Rosemary Vega, CEO