

Ordinance No. 24-09-19-42

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**CITY OF CORINTH, TEXAS  
ORDINANCE NO. 24-09-19-42**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF CORINTH AND THE LAKE CITIES CHAMBER OF COMMERCE FOR THE PAYMENT AND USE OF HOTEL TAX REVENUE; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the local Government Code; and

**WHEREAS**, the City Council of Corinth adopted Ordinance No. 08-06-05-15 to impose a hotel occupancy tax pursuant to Chapter 351 of the Tax Code; and

**WHEREAS**, the City Council of Corinth has determined that the Lake Cities Chamber of Commerce, through the use of Hotel Tax Revenue and pursuant to Chapter 351 of the Tax Code, has the opportunity to be involved with the City's advertising and promotional activities to promote Corinth as a tourist destination; and

**WHEREAS**, the City Council deems it appropriate to enter into an agreement with the Lake Cities Chamber of Commerce for the payment and use of hotel tax revenues, as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CORINTH, TEXAS:**

**SECTION I**

The recitals set forth above are true and accurate and are hereby incorporated into the body of this Ordinance as if set forth fully herein.

**SECTION II**

The City Manager, or his designee, is hereby authorized to execute an agreement between the City of Corinth and the Lake Cities Chamber of Commerce for the payment and use of hotel tax revenue, under the terms and conditions contained in the agreement, attached hereto and made a part hereof for all purposes as Exhibit A.

**SECTION III**

This Ordinance shall become effective immediately upon its passage and approval.

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**PASSED AND APPROVED ON THIS THE 19th DAY OF SEPTEMBER 2024.**

Signed by:

*Bill Heidemann*

AC74FAA88CA6468

Bill Heidemann, Mayor

**ATTEST:**

DocuSigned by:

*Lana Wylie*

D77DD89EB0C3473

Lana Wylie, City Secretary



**APPROVED AS TO FORM:**

DocuSigned by:

*Patricia Adams*

B5BAF55D871D428

Patricia A. Adams, City Attorney

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**Exhibit A**

**AGREEMENT BETWEEN THE CITY OF CORINTH AND  
LAKE CITIES CHAMBER OF COMMERCE PROVIDING FOR  
THE PAYMENT AND USE OF HOTEL TAX REVENUE**

THIS AGREEMENT is made between the City of Corinth, Texas, a municipal corporation (the "CITY"), and the Lake Cities Chamber of Commerce, an independent non-profit organization (the "ENTITY").

**WHEREAS**, TEXAS TAX CODE chapter 351 authorizes CITY by ordinance to levy a municipal hotel occupancy tax ("hotel tax") not exceeding seven percent (7%) of the consideration paid by a hotel occupant; and

**WHEREAS**, by Ordinance No. 08-06-05-15, CITY has provided for the assessment and collection of a municipal hotel occupancy tax in the City of Corinth of seven percent (7%); and

**WHEREAS**, TEX. TAX CODE § 351.101(a) authorizes CITY to use revenue from its municipal hotel occupancy tax to promote tourism and the convention and hotel industry by advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity; and

**WHEREAS**, ENTITY is well equipped to perform those activities; and

**WHEREAS**, TEXAS TAX CODE § 351.101(c) authorizes CITY to delegate by contract with ENTITY, as an independent entity, the management and supervision of programs and activities of the type described hereinabove funded with revenue from the municipal hotel occupancy tax;

NOW, THEREFORE, in consideration of the performance of the mutual covenants and promises contained herein, CITY and ENTITY agree, and contract as follows:

**I. HOTEL TAX REVENUE PAYMENT**

**1.1 Definitions.** As used in this Agreement, the following terms shall have the following specific meanings:

(a) The term "hotel tax revenue" shall mean the gross monies collected and received by CITY as municipal hotel occupancy tax at the rate of seven percent (7%) of the price paid for a room in a hotel, pursuant to Texas Tax Code § 351.002 and City Ordinance. Hotel tax revenue will include penalty and interest related to the late payments of the tax revenue by the taxpayer.

(b) The term "contract quarter" shall refer to any quarter of CITY's calendar year in which this Agreement is in force. Contract quarters will end on March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup> of each contract year.

**1.2 Consideration.** For and in consideration of the activities to be performed by ENTITY under this Agreement, CITY agrees to pay to ENTITY a portion of the hotel tax revenue collected by CITY at the rates and in the manner specified herein (such payments by CITY to ENTITY sometimes herein referred to as the "agreed payments" or "hotel tax funds").

**1.3 Dates of Payments.**

In return for satisfactory performance of the activities set forth in this Agreement and all attachments hereto, CITY shall pay to ENTITY an amount of money not to exceed

\$5000.00. This amount will be paid in one lump sum after the 25th of January 2025. If, at any point during the Agreement, CITY'S Director of Finance determines that hotel tax receipts by the CITY are not meeting the anticipated budget projection, CITY will reduce its payment to ENTITY and the ENTITY's current budget, as approved by the Corinth City Council, accordingly, at any time during the Agreement. Payment is subject to refund of any unused or improperly expended funds from the prior contract period, and CITY's timely receipt of the required quarterly reports.

#### **1.4 Other limitations regarding consideration.**

(a) The consideration herein in no way commits CITY to future funding of this Agreement beyond the initial term of the Agreement. Any future funding is solely the responsibility of ENTITY.

(b) It is expressly understood that this Agreement in no way obligates the General Fund or any other monies or credits of CITY.

(c) CITY may withhold further allocations if CITY determines that ENTITY's expenditures deviate materially from their approved budget.

### **II. USE OF HOTEL TAX REVENUE**

**2.1 Use of Funds.** For and in consideration of the payment by CITY to ENTITY of the agreed payments of hotel tax funds specified above, ENTITY agrees to use such hotel tax funds only for advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity, as authorized by TEXAS TAX CODE § 351.101(a)(3), and this Agreement, including Exhibit A, attached hereto and incorporated as if set forth fully herein. Funds for any calendar year which are unused by midnight December 31<sup>st</sup> of that year shall be refunded to CITY within sixty (60) days.

Advertising materials purchased with the hotel occupancy tax funds must be targeted to reach audiences outside the CITY limits. These materials include, but are not limited to, signs, posters, postcards, newsletters, print advertising, digital marketing, billboards, radio and television.

### **III. RECORDKEEPING AND REPORTING REQUIREMENTS**

#### **3.1 Budget.**

(a) ENTITY shall adhere to the budget (Exhibit "A") as approved by the City Council for each calendar year, for all operations of ENTITY in which the hotel tax funds shall be used by ENTITY. In other words, CITY should be able to audit specifically the purpose of each individual expenditure of hotel tax funds from the separate account relating to hotel tax funds. CITY shall not pay to ENTITY any hotel tax revenues as set forth in Section I of this Agreement during any program year of this Agreement unless a budget for such respective program year has been approved in writing by the Corinth City Council, authorizing the expenditure of funds.

(b) ENTITY acknowledges that approval of the budget (Exhibit "A") by the Corinth City Council creates a fiduciary duty in ENTITY with respect to the hotel tax funds paid by CITY to ENTITY under this Agreement. ENTITY shall expend hotel tax funds only in

the manner and for the purposes specified in this Agreement, TEXAS TAX CODE §351.101(a) and in the budget as approved by CITY.

(c) Upon the application or consent of ENTITY, the City Manager or his designate may authorize minor amendments to the approved budget as necessary to carry out the intent of this Agreement, in a manner consistent with efficient use of public funds, and in accordance with State law. Such minor amendments may not increase the overall funding set forth in 1.2(b), extend the term, or otherwise alter the performance obligations of ENTITY, without approval of the City Council by ordinance.

**3.2 Separate Accounts.** ENTITY shall maintain any hotel tax funds paid to ENTITY by CITY in a separate account or with segregated fund accounting, such that any reasonable person can ascertain the revenue source of any given expenditure.

**3.3 Financial Records.** ENTITY shall maintain complete and accurate financial records of each expenditure of the hotel tax funds made by ENTITY. These funds are required to be classified as restricted funds for audited financial purposes, and may not be used for contracted services, including, but not limited to, auditing fees or attorney fees. Upon reasonable advance written request of the Corinth City Council, the City Manager or designate, or any other person on behalf of CITY, ENTITY shall make such financial records available for inspection and review by the party making the request. ENTITY understands and accepts that all such financial records, and any other records relating to this Agreement shall be subject to the Public Information Act, TEXAS GOV'T CODE, ch. 552, as hereafter amended.

**3.4 Financial Reports.** After initial receipt of hotel tax funds, and within thirty (30) days after the end of the program year, ENTITY shall furnish to CITY: (1) a completed financial report, (2) a list of the expenditures or copies of the invoices or receipts made with regard to hotel tax funds pursuant to TEXAS TAX CODE § 351.101(c), social media and/or digital marketing expenditures require invoices to be provided and shall include performance metrics/analytics, and (3) a copy of all financial records (e.g., copies of front and back of cleared checks or bank statements, and other relevant documentation). Both the financial and expenditure reports will be in a form either determined or approved by the City Manager or designate. ENTITY shall respond promptly to any request from the City Manager of CITY, or designate, for additional information relating to the activities performed under this Agreement.

**3.5 Notice of Meetings.** ENTITY shall give the City Manager of CITY, or his designate, reasonable advance written notice of the time and place of all meetings of ENTITY's Board of Directors, as well as any other meeting of any constituency of ENTITY, at which this Agreement or any matter subject to this Agreement shall be considered.

#### IV. TERM AND TERMINATION

**4.1 Term.** The term of this Agreement shall commence on January 1, 2025 and terminate at midnight on January 31, 2026. However, the program period shall commence on January 1, 2025, and terminate at midnight on December 31, 2025. Only those expenditures authorized by Chapter 351 of the Texas Tax Code and the program guidelines, which are actually incurred during the program period, for events and activities taking place within the program period, are eligible for

funding under this Agreement, and any ineligible expenditures or unspent funds shall be forfeited to CITY upon termination of this Agreement. This Agreement may renew for additional one (1) year periods upon written agreement of Parties hereto.

#### **4.2 Termination Without Cause.**

(a) This Agreement may be terminated by either party, with or without cause, by giving the other party sixty (60) days advance written notice.

(b) In the event this Agreement is terminated by either party pursuant to 4.2(a), CITY agrees to reimburse ENTITY for any contractual obligations of ENTITY undertaken by ENTITY in satisfactory performance of those activities specified in 2.1 above, and that were approved by the Council through the budget, as noted in 3.1. This reimbursement is conditioned upon such contractual obligations having been incurred and entered into in the good faith performance of those services contemplated in 2.1 above, and further conditioned upon such contractual obligations having a term not exceeding the full term of this Agreement. Notwithstanding any provision hereof to the contrary, the obligation of CITY to reimburse ENTITY, or to assume the performance of any contractual obligations of ENTITY, for or under any contract entered into by ENTITY as contemplated herein, shall not exceed 66 2/3% of the current quarterly payment.

(c) Further, upon termination pursuant to 4.2(a), ENTITY will provide CITY: 1) within ten (10) business days from the termination notification, a short-term budget of probable expenditures for the remaining sixty (60) day period between termination notification and contract termination. 2) within thirty (30) days, a full accounting of all expenditures not previously audited by CITY; 3) within five (5) business days of a request from CITY, a listing of expenditures that have occurred since the last required reporting period; 4) a final accounting of all expenditures and tax funds on the day of termination. ENTITY will be obligated to return any unused funds, or funds determined to be used improperly. Any use of remaining funds by ENTITY after notification of termination is conditioned upon such contractual obligations having been incurred and entered into in the good faith performance of those services contemplated in 2.1 above, and further conditioned upon such contractual obligations having a term not exceeding the full term of this Agreement.

**4.3 Automatic Termination.** This Agreement shall automatically terminate upon the occurrence of any of the following events:

(a) The termination of the legal existence of ENTITY;

(b) The insolvency of ENTITY, the filing of a petition in bankruptcy, either voluntarily or involuntarily, or an assignment by ENTITY for the benefit of creditors;

(c) The continuation of a breach of any of the terms or conditions of this Agreement by either CITY or ENTITY for more than thirty (30) days after written notice of such breach is given to the breaching party by the other party; or

(d) The failure of ENTITY to submit a financial report which complies with the reporting procedures required herein and generally accepted accounting principles prior to the beginning of the next contract term, as required by 1.3 hereof.

**4.4 Right to Immediate Termination Upon Litigation.** Notwithstanding any other provision of this Agreement, to mitigate damages and to preserve evidence and issues for judicial determination, either party shall have the right to terminate this Agreement upon immediate notice to the other party in the event that any person has instituted litigation concerning the activities of the non-terminating party, and the terminating party reasonably believes that such activities are required or prohibited under this Agreement.

**4.5** In the event that this Agreement is terminated pursuant to 4.3 or 4.4, ENTITY agrees to refund any and all unused funds, or funds determined by CITY to have been used improperly, within thirty (30) days after termination of this Agreement.

## V. GENERAL PROVISIONS

**5.1 Subcontract for Performance of Services.** Nothing in this Agreement shall prohibit, nor be construed to prohibit, the agreement by ENTITY with another private entity, person, or organization for the performance of those services described in 2.1 above. In the event that ENTITY enters into any arrangement, contractual or otherwise, with such other entity, person or organization, ENTITY shall cause such other entity, person, or organization to adhere to, conform to, and be subject to all provisions, terms, and conditions of this Agreement and to TEXAS TAX CODE ch. 351, including reporting requirements, separate funds maintenance, and limitations and prohibitions pertaining to expenditure of the agreed payments and hotel tax funds.

**5.2 Independent Contractor.** ENTITY shall operate as an independent contractor as to all services to be performed under this Agreement and not as an officer, agent, servant, or employee of CITY. ENTITY shall have exclusive control of its operations and performance of services hereunder, and such persons, entities, or organizations performing the same, and ENTITY shall be solely responsible for the acts and omissions of its directors, officers, employees, agents, and subcontractors. ENTITY shall not be considered a partner or joint venturer with CITY, nor shall ENTITY be considered, nor in any manner hold itself out as, an agent or official representative of CITY.

**5.3 Indemnification.** ENTITY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR INJURIES, DAMAGE, LOSS, OR LIABILITY OF WHATEVER KIND OR CHARACTER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE BY ENTITY OF THOSE SERVICES CONTEMPLATED BY THIS AGREEMENT, INCLUDING ALL SUCH CLAIMS OR CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL OR STATUTORY LAW, OR BASED, IN WHOLE OR IN PART, UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OF ENTITY, ITS OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, LICENSEES AND INVITEES.

**5.4 Assignment.** ENTITY shall not assign this Agreement without first obtaining the written consent of CITY.

**5.5 Notice.** Any notice required to be given under this Agreement or any statute, ordinance, or regulation, shall be effective when given in writing and deposited in the United States mail,

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certified mail, return receipt requested, or by hand-delivery, addressed to the respective parties as follows:

CITY

Lee Ann Bunselmeyer  
CITY OF CORINTH  
3300 Corinth Pkwy  
Corinth TX 76208

ENTITY

LAKE CITIES CHAMBER OF COMMERCE  
3101 Garrison Street  
Corinth, TX 76210

**5.6 Inurement.** This Agreement and each provision hereof, and each and every right, duty, obligation, and liability set forth herein shall be binding upon and inure to the benefit and obligation of CITY and ENTITY and their respective successors and assigns.

**5.7 Application of Laws/Venue.** All terms, conditions, and provisions of this Agreement are subject to all applicable federal laws, the laws of the State of Texas, the Charter of the City of Corinth, all ordinances passed pursuant thereto, and all judicial determinations relative thereto. Exclusive venue for any cause of action that may arise pursuant to this Agreement shall lie in Denton County, Texas.

**5.8 Exclusive Agreement.** This Agreement contains the entire understanding and constitutes the entire agreement between the parties hereto concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, express or implied, between or among the parties hereto, relating to the subject matter of this Agreement, which are not fully expressed herein. The terms and conditions of this Agreement shall prevail, notwithstanding any variance in this Agreement from the terms and conditions of any other document relating to this transaction or these transactions.

**5.9 Duplicate Originals.** This Agreement is executed in duplicate originals.

**5.10 Headings.** The headings and subheadings of the various sections and paragraphs of this Agreement are inserted merely for the purpose of convenience and do not express or imply any limitation, definition, or extension of the specific terms of the section and paragraph so designated.

**5.11 Severability.** If any section, subsection, paragraph, sentence, clause, phrase or word in this Agreement, or application thereof to any person or circumstance is held invalid by any court of

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competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Agreement, and the parties hereby declare they would have enacted such remaining portions despite any such invalidity.

**5.12 Insurance.** ENTITY shall provide insurance as follows:

1. \$500,000 Commercial General Liability, or \$1,000,000 Event Insurance, covering all events taking place on City-owned property,
2. \$250,000 Liquor/Dram Shop Liability for any event occurring on City-owned property where alcohol will be provided or served.
3. Municipality shall be named as an additional insured on ENTITY's insurance coverage. A waiver of subrogation shall be provided on all coverages.
4. Prior to commencement of services pursuant to this Agreement, ENTITY shall submit certificates of insurance acceptable to CITY.

~~THE CITY OF CORINTH, TEXAS~~ Signed by:

By: Scott Campbell  
DB18BFF879464BB...  
Scott Campbell  
City Manager

Date of Execution: September 23, 2024

ATTEST: Signed by:

By: Lana Wylie  
D77DD89FB0C3473...  
Lana Wylie  
City Secretary

Date of Execution: September 24, 2024

~~LAKE CITIES CHAMBER OF COMMERCE~~ Signed by:

By: Tina Henderson  
6F79906B420D4ED...

Name: Tina Henderson

Title: Director

Date of Execution: September 20, 2024