

STATE OF TEXAS §
 § **REIMBURSEMENT AGREEMENT**
COUNTY OF BEXAR §

This AGREEMENT is entered into by and between the City of San Antonio, a Texas Municipal Corporation (“CITY”), acting by and through its City Manager, and San Antonio Bowl Association, a not for profit/501(c)(3) corporation chartered under the laws of the State of Texas (“RECIPIENT”).

WHEREAS, the Events Trust Fund (“Fund”) (Vernon’s Texas Civil Statutes 5190.14, Section 5C) provides a mechanism for governmental entities to receive reimbursement for expenses related to certain premiere sporting events and other events and the City is utilizing this statutory tool to recoup eligible expenses incurred by RECIPIENT in hosting the 2015 Valero Alamo Bowl (“Event”) on January 2, 2015; and

WHEREAS, CITY and RECIPIENT entered a Joinder Agreement related to the Event which was submitted to the State Comptroller as part of the Event Trust Fund application for the Event; and

WHEREAS, in order to receive repayment from the Fund, the City is required to submit all eligible expenses to the State Comptroller and in this case shall submit a local contribution in an amount up to \$40,616.00; and

WHEREAS, the expenses for conference fees to be submitted to the State Comptroller by CITY were actually paid by RECIPIENT; and

WHEREAS, it is anticipated that CITY will receive a total reimbursement of up to \$294,463.00 from the Fund; and

WHEREAS, the goods for which RECIPIENT is seeking reimbursement were provided prior to the Event and CITY desires to reimburse such expenses from the money it receives from the Fund; **NOW THEREFORE**

For and in consideration of the following mutual promises and obligations, CITY and RECIPIENT (“Parties”) hereby agree as follows:

1. CITY shall reimburse up to \$253,847.00 of RECIPIENT’s Event expenses from funds it receives from the State Comptroller through the Fund. If CITY receives less than \$294,463.00, then CITY shall first reimburse itself in the amount of up to \$40,616.00 for its local contribution, and then reimburse RECIPIENT from the remaining funds.
2. It is the understanding of the Parties that the funds paid by CITY under this Agreement shall reimburse RECIPIENT’s Event expenses and CITY shall not be liable for any additional Event expenses of RECIPIENT. Should the total amount of funds received by CITY from the Fund not cover all of RECIPIENT’s reimbursable expenses provided for in Paragraph 1, CITY shall not be liable to RECIPIENT for any additional payment.
3. CITY shall reimburse RECIPIENT the amount due under Paragraph 1 within thirty (30) days of its receipt of its complete disbursement from the Fund.
4. This Agreement is not assignable or transferable.
5. CITY’s Director of the Convention and Sports Facilities, or his designee, shall be CITY’s representative responsible for the administration of this Agreement.
6. RECIPIENT represents, warrants, assures, and guarantees that it possesses the legal authority to enter into this Agreement and to perform the responsibilities herein required. The signer of this Agreement for RECIPIENT represents, warrants, assures, and guarantees that he or she has full legal authority to execute this

Agreement on behalf of RECIPIENT and to bind RECIPIENT to all terms, performances and provisions herein contained.

7. CITY and RECIPIENT agree that CITY shall not be obligated or liable under this Agreement to any party, other than RECIPIENT, for payment of any monies.

8. RECIPIENT agrees that CITY may carry out monitoring and evaluation activities to ensure RECIPIENT's compliance with this Agreement. RECIPIENT shall maintain all records regarding funding provided by this Agreement for a period of four (4) years after the termination of this Agreement.

9. All alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing executed by both CITY and RECIPIENT, and subject to the approval of the City Council of the City of San Antonio, when such approval is required.

10. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or City ordinances, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

11. No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

12. No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

13. This Agreement constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless this Agreement is amended as proscribed in paragraph 9.

14. In the event any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, CITY shall have the final authority to render or secure an interpretation.

15. For purposes of this Agreement, all official communications and notices among the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

RECIPIENT:

Michael Sawaya
Director, Convention and Sports Facilities
200 E. Market Street
San Antonio, Texas 78205

Derrick Fox
San Antonio Bowl Association
100 Montana Street
San Antonio, Texas 78203

16. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

17. RECIPIENT covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of CITY and that the doctrine of respondent superior shall not apply as between CITY and RECIPIENT, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between CITY and RECIPIENT. The Parties hereto understand and agree that CITY shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be obtained by RECIPIENT under this Agreement and that RECIPIENT has no authority to bind CITY.

18. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas.

19. This Agreement shall commence upon final execution and expire sixty (60) days after CITY's compliance with Paragraph 1.

EXECUTED in duplicate originals this ____ day of _____ 2015.

CITY OF SAN ANTONIO

SAN ANTONIO BOWL ASSOCIATION

Edward Belmares
Assistant City Manager

Derrick Fox
President and CEO

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney