

STATE OF TEXAS            §  
  §  
COUNTY OF BEXAR        §

**CONTRACT FOR THE SAN ANTONIO TOURISM PUBLIC IMPROVEMENT DISTRICT**

This contract for the collection of assessments and provision of services and improvements for the San Antonio Tourism Public Improvement District (the “Contract”) effective as of Xxxxxxx xx, 2018, is made by and between the San Antonio Tourism Public Improvement District Corporation, (“SATPIDC”), a Texas nonprofit corporation, Visit San Antonio (“VSA”), a Texas nonprofit corporation, and the City of San Antonio (the “City”), a Texas municipal corporation.

**RECITALS:**

WHEREAS, on Xxxxxxx xx, 2018, the City Council, passed Resolution No. xxxx-xx-xxxx that made certain findings concerning the advisability of establishing the San Antonio Tourism Public Improvement District (the “District”), authorized and created the District as a public improvement district under Chapter 372 of the Texas Local Government Code, designated the SATPIDC as the entity responsible for the management of and provision of services and improvements to the District, authorized the City Manager to enter into a contract with SATPIDC and VSA for the provision of services and improvements for the District and collection services by the City for the District, and approved the initial District service plan, attached hereto as **Exhibit A** (the “Service Plan”); and

WHEREAS, SATPIDC shall be the primary entity responsible for the oversight of services and improvements to the District, but VSA shall implement the Service Plan for the District under SATPIDC’s oversight; and

WHEREAS, the Board of Directors of SATPIDC and the Board of Directors of VSA have each passed a resolution authorizing their respective entities to enter into this Contract and authorizing xxxxxxxx xxxxxxxx to sign on behalf of SATPIDC to bind the corporation under this Contract, and VSA’s President & CEO to sign on behalf of VSA; and

WHEREAS, the City, SATPIDC and VSA now desire to enter into this Contract for the collection of the assessments and the management of the provision of services and improvements to the District; and

WHEREAS, the services to be supplied to the District provide special benefits to the property owners within the District and are supplemental to standard City services.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, SATPIDC, VSA, and the City agree as follows:

1. **Engagement and Compensation.** The City hereby engages SATPIDC and VSA and they agree to provide in accordance with the provisions of this Contract and Resolution No. xxxx-xx-xxxx the services and improvements described in the Service Plan and future annual service plans to be approved by SATPIDC and the City Council. The compensation to be paid to VSA for the administration of the program items shall not exceed the amount established for "Administration" by each annually approved service plan (as same may be later modified pursuant to Section 2.(a) of this Contract). The compensation to be paid to the City for the administration of the program items shall be one-half of one-percent (1/2 of 1%) of the collected assessment of the SATPID to be capped at no more than FIFTY THOUSAND DOLLARS AND 0 CENTS (\$50,000.00) plus the recovery of costs associated with the payment of the assessment by credit card (i.e. credit card fees). This compensation is necessary for the City to recover costs associated with performing its duties under this Agreement.
  
2. **Scope of Services.** Throughout the duration of this Contract, SATPIDC and VSA shall provide the services and improvements as described in the Service Plan and thereafter approved annually by the City Council. In providing these services and improvements, SATPIDC and VSA shall:
  - (a) timely deliver the services and improvements in accordance with the annually approved service plan, subject to SATPIDC's ability to modify or substitute items without City Council approval within the program categories if SATPIDC determines that such changes would serve the common interest of owners in the District and the increase or decrease in the amount of a program category does not exceed ten percent (10%) of the budgeted amount for that category. The Service Plan and each such annually approved service plan as same may thereafter be increased or decreased shall be hereafter referred to as the "Service Plan." "Program categories" in the Service Plan include marketing and sales activities and other services as provided in the Service Plan
  
  - (b) only use District assessment funds received to defray expenditures which: (i) clearly fit within the noted categories specifically listed in the Service Plan (except as modified pursuant to subsection (a) above); and (ii) incurred after xxxxx 1, 2018 (hereinafter called "allowable costs"), other than allowable start-up costs as referred to in the "Start-Up Costs for Creation of the PID" section of Exhibit 2

- (c) support all costs covered by District assessment funds by properly executed checks, orders, payrolls, time records, invoices, contracts, vouchers, or other accounting documents evidencing in detail the nature and propriety of the charges. Such documentation shall be clearly identified, readily accessible and, to the extent possible, kept separate and apart from all other such documents
- (d) set priorities and schedules for implementing the service plan elements, considering the needs and preferences of owners in the District and the availability of personnel and financial resources
- (e) if necessary, secure and retain the services of qualified personnel to implement the service plan and provide communication equipment and office supplies as approved by the SATPIDC Board.
- (f) prepare a timely annual update of the Service Plan for the District to be presented to the City Council for annual review and approval. The plan will include an assessment roll, along with an updated eight-year service plan
- (g) commission an annual financial audit of all PID expenditures by a Certified Public Accountant and make the audit available to the City within one hundred twenty (120) days after the end of the fiscal year
- (h) allow reasonable access as provided under the Texas Public Information Act to the City of the financial records of SATPIDC and VSA that relate to the District
- (i) enter into contracts with exempt jurisdictions for provision of services or improvements to the District
- (j) prepare and deliver to the City quarterly/annual financial reports in a timely manner as listed in **Exhibit B**
- (k) take other actions reasonably necessary for the management of the District and the provision of the services and improvements to the District

3. **Collection and Distribution of Assessments.** The City shall collect the annual assessments for the District along with the other local hotel occupancy taxes paid by hotels within the District. Funds shall be accounted for and distributed as provided below.

- (a) The assessments received will be transferred to VSA on a monthly basis. Delinquent assessments collected after the District has been dissolved shall be retained by the City, but the retention of such assessments shall be subject to utilization by the tax collector to repay any hotel that is legally entitled to a refund of all or a portion of an assessment and any interest required by law to be paid.

- (b) All assessments, including any interest for late payments, shall be transferred on a monthly basis to an account of VSA for the benefit of the SATPIDC by Automated Clearing House, wire transfer or other means mutually agreed to by the City and VSA. The District assessment collection process is explained in **Exhibit C**.
- (c) Pursuant to Section 2.(k) above, the City hereby expressly acknowledges that SATPIDC is contracting with VSA to implement the funded activities of the District, more specifically: to enhance services, undertake certain improvements, in particular, special supplemental services relating to District marketing, business recruitment, and promotional activities for improvement and promotion of the District, including the provision of supplemental marketing and sales initiatives to increase demand for transient, business, convention, group, and other hotel activity to the City of San Antonio. A copy of the SATPIDC/VSA contract is included as **Exhibit D**.
- (d) Beginning on October 1, 2018, the City shall designate 35 percent (35%) of the net hotel occupancy tax (HOT) revenue collected, defined as all HOT revenue exclusive of the 2% expansion tax, minus the provision of payment satisfying the City's lease payment (debt service) obligation to the City of San Antonio, Texas Public Facilities Corporation for the current fiscal year as well as any amount set aside for the defeasance of debt, as compensation to VSA for the performance of Services. Each year during the City's annual budget process, the designated percentage, subject to the potential adjustment as outlined below, will result in an annual appropriation to be paid to VSA. This provision shall not impede the ability of the City to enter into additional obligations for the continued expansion or development of the Convention Center, Alamodome or any other facility for which the use of HOT revenues are appropriate pursuant to state law. The designated annual percentage may be adjusted by the City during the City's annual budget process. Adjustment will be based upon the annual update to the HOT pro forma and can only be made to increase, maintain, or reduce operating expenses due to factors including changing economic conditions, requirements of VSA, requirements of the City and funding levels of the contingency funds and lease payment as set forth in the hereafter referenced HOT financial policy. The City will actively manage operating expenses to be funded with HOT in keeping with the HOT Funds financial policy approved by City Council on September 20, 2012 through Resolution No. 2012-09-20-0038R.
- (e) The City shall provide VSA with electronic copies of the assessment roll. VSA shall make that information available to the SATPIDC Board.
- (f) If necessary, SATPIDC or its contractor shall make available to the tax collector sufficient funds to repay any taxpayer who is legally entitled to a refund of all or a portion of an assessment and any interest required by law to be paid. City shall

make a good faith effort to notify SATPIDC of such potential situations (including, but not limited to, lawsuits and tax protests) so that SATPIDC is able to set aside a sufficient reserve to cover any such refunds and interest.

- (g) SATPIDC or its contractor will invest the District assessments received from the City and any income earned on those assessments in accordance with the investment policies and strategies prescribed in Chapter 2256 of the Texas Government Code to achieve the following investment objectives, in order of priority: (1) understanding of the suitability of the investment to the financial requirements of the entity; (2) preservation and safety of principal; (3) liquidity; (4) marketability of the investment if the need arises to liquidate the investment before maturity; (5) diversification of the investment portfolio; and (6) yield. The assessments and any interest or other income earned on such public funds shall be used by SATPIDC and VSA to fund services and improvements listed in the Service Plan annually approved by the City Council.
4. **Conflict of Interest.** By signing this Contract, the SATPIDC and VSA both acknowledge to the City that it has made and will continue to make full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property and business relationships that relate to the duties of the SATPIDC. The SATPIDC and VSA further agree that it shall make disclosure in writing of any conflicts of interest which develop subsequent to the signing of this Contract and prior to its termination.
5. **Discrimination Prohibited.** SATPIDC and VSA, in the execution, performance, or attempted performance of the Agreement, shall not willfully discriminate against any person or persons because of sex, race, religion, color or national origin, nor will SATPIDC or VSA permit its officers, agents, employees or subcontractors to engage in such discrimination. Additionally, SATPIDC and VSA agree to abide by the City's non-discrimination ordinance City Ordinance #2013-09-05-0577.
6. **Gift to Public Servant.** City may terminate this Contract immediately if SATPIDC or VSA has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

For purposes of this section, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

Notwithstanding any other legal remedies, City may require SATPIDC and/or VSA to remove any employee of SATPIDC or of VSA who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

7. **No Partnership or Joint Venture.** It is specifically understood that the relationship described in this Contract between SATPIDC, VSA, and the City is contractual in nature and is not to be construed to create an agency, partnership or joint venture relationship between SATPIDC, VSA, and the City; nor shall the City be liable for any debts incurred by the SATPIDC or VSA in the conduct of such other party's business or function.
8. **Independent Contractor.** SATPIDC's and VSA's status shall be that of independent contractors and not an agent, servant, employee, or representative of City in the performance of services under this Contract. SATPIDC and VSA shall exercise independent judgment in performing duties under this Contract and are solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of SATPIDC or VSA in the performance of this Contract shall be construed as making SATPIDC or VSA the agent, servant or employee of City, or making SATPIDC or VSA or any of their employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which City provides its employees.
9. **Assignment.** SATPIDC and VSA shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of City's City Manager. As an express condition of consent to any assignment, SATPIDC and VSA shall remain liable for completion of the Contract work in the event of default by the successor contractor or assignee.
10. **Insurance.**
  - (a) The SATPIDC shall, at its own expense, maintain in full force and effect throughout the term of this Contract insurance as set forth below:
    1. Comprehensive General Liability Insurance: VSA, on behalf of the SATPIDC, shall maintain throughout the Term of this Agreement a commercial general liability insurance policy in an amount of not less than \$1,000,000 covering each occurrence with an aggregate limit of not less than \$2,000,000.
    2. Automobile Insurance – Bodily Injury and Property Damage: VSA, on behalf of the SATPIDC, shall maintain throughout the Term of this Agreement comprehensive automotive liability coverage in an amount not less than \$1,000,000 for each accident. This policy shall cover any automobile used in the provision of Improvements and Services under this agreement.
    3. Worker's Compensation Insurance: VSA, on behalf of the SATPIDC, shall maintain throughout the Term of this Agreement statutory Worker's Compensation Insurance on all its employees to be engaged in

undertaking any Improvements or Services hereunder. In case any class of employees engaged in hazardous work under this Agreement is not protected under the state's Worker Compensation statutes, SATPIDC shall provide adequate employer's general liability insurance for the protection of such employees not so protected.

(b) Other Requirements:

1. The City shall be named as an additional insured and a waiver of subrogation in favor of the City shall be provided on every applicable insurance policy. The SATPIDC and VSA hereby waive subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the City.
2. The term "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the City, and the individual members, employees and agents in their official capacities.
3. Insurance shall be provided through companies duly approved to transact that class of insurance in the State of Texas. Companies providing coverage shall have a minimum A.M. Best rating of A VII.
4. Certificates of insurance shall be provided to the City Manager. Thirty (30) days written notices is required before any insurance is altered, cancelled, or non-renewed.

City of San Antonio  
Attn: City Manager  
XXXXXXXXXXXXXXXXXXXX  
San Antonio, Texas xxxxx

**CITY SHALL HAVE NO DUTY TO EXECUTE OR PERFORM UNDER THIS CONTRACT UNTIL THE CERTIFICATE AND SUFFICIENT EVIDENCE OF CONFORMITY TO CITY'S INSURANCE REQUIREMENTS SHALL HAVE BEEN DELIVERED AND APPROVED BY THE CITY, AND NO CITY OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.**

11. **Indemnity. SATPIDC AND VSA AGREE TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY SATPIDC OR VSA'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ANY NEGLIGENT ACT OR OMISSION OF SATPIDC OR VSA,**

THEIR OFFICERS, DIRECTORS, AGENTS, ASSOCIATES, EMPLOYEES, SUB-CONSULTANTS OR CONTRACTORS, IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OF BOTH SATPIDC AND/OR VSA AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, ASSOCIATES, EMPLOYEES, SUB-CONSULTANTS OR CONTRACTORS IN CONNECTION WITH THE PERFORMANCE OR CONDUCT OF THE SERVICES RELATED TO, CONTEMPLATED BY OR ARISING AS A RESULT OF THE SERVICE PLAN, AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

12. **Rights, Remedies and Termination.** All parties are executing this Contract in good faith and with the intent that all provisions contained herein shall be met in accordance with their terms. In the event of a breach or violation of its terms by any party to this Contract, then the party(ies) in compliance may exercise whatever rights and remedies may be available or afforded to such party(ies) at law or in equity. In addition to any other remedies available, the City may terminate this Contract if SATPIDC or VSA violates any part of this Contract and SATPIDC or VSA fails to reasonably cure the violation of this Contract within thirty (30) days of receipt of written notice to both entities by the City of a violation of this Contract by certified mail.

In addition to termination, the City shall recover those portions of assessment funds, including interest or other income earned on such assessment funds that were not spent on allowable costs per the Service Plan, plus any other damages suffered by the City as a result of SATPIDC or VSA's violation of the terms and conditions of this Contract. SATPIDC and VSA may each invoice City for all services they respectively completed and shall be compensated in accordance with the terms of this Contract with special assessments for all services performed by SATPIDC and VSA prior to the date specified in such notice. A previous payment or approval of payment of all or any portion of assessment funds by City shall not be deemed a waiver of the City's rights under this section. Any express waiver by the City of a violation by SATPIDC or by VSA shall not be deemed to waive any subsequent violation by SATPIDC or VSA.

13. **Notice.** Any notice, payment, statement, or demand required or permitted to be given under this Contract by any party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing:



If to the City:

City of San Antonio  
Attn: City Manager  
PO Box 839966  
San Antonio, TX 78238-9966

If to SATPIDC:

San Antonio Tourism Public Improvement District Corporation (SATPIDC)  
Liza Barratachea or Current SATPIDC Chair  
119 Heiman, Ste. 300  
San Antonio, TX 78205

If to VSA:

Casandra Matej or Current President & CEO of Visit San Antonio  
Visit San Antonio  
203 S. St. Mary's Street  
Suite 200  
San Antonio, Texas 78205

14. **Right of Review and Audit.** City is granted the right to audit, at City's election, all SATPIDC and VSA records and billings relating to the performance of this Contract. SATPIDC and VSA agree to retain such records for a minimum of three (3) years following completion of this Contract. Any payment, settlement, satisfaction, or release provided under this Contract shall be subject to City's rights as may be disclosed by such audit.
15. **Captions.** The captions, headings, and arrangements used in this Contract are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.
16. **Compliance with Laws and Regulations.** This Contract is entered into subject to and controlled by the Charter and ordinances of the City of San Antonio and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. SATPIDC and VSA shall, during the course of performance of this Contract, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.
17. **Venue.** The obligations of the parties to this Contract shall be performable in Bexar County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Bexar County, Texas.
18. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

19. **Legal Construction.** In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.
20. **Term.** This Contract shall terminate on xxxxx xx, 2026, unless otherwise agreed to in writing by the parties. If for any reason the District is dissolved before xxxxx xx, 2026, this Contract shall terminate upon the payment to SATPIDC and VSA for all services and improvements provided to the District to the date of dissolution and for the reasonable cost of services to conclude the business of the District.
21. **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.
22. **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this Contract, their assigns.
23. **Entire Agreement; No Oral Modifications.** This Contract (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of the City with both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

EXECUTED and effective as of the xx day of Xxxxxxx 2018, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. xxxx-xx-xxxx approved by the City Council on Xxxxxxx xx, 2018, and by SATPIDC and VSA, acting through their authorized officials.

APPROVED AS TO FORM:

**CITY OF SAN ANTONIO**

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

BY: \_\_\_\_\_

**SAN ANTONIO TOURISM PUBLIC  
IMPROVEMENT DISTRICT CORPORATION,  
INC.,**  
a Texas nonprofit corporation

By: \_\_\_\_\_  
Xxxxxxx Xxxxxxx, SATPIDC Chairman

VISIT SAN ANTONIO, INC., a Texas nonprofit  
corporation

By: \_\_\_\_\_  
Casandra Matej, CEO, VSA

Attachments:

Resolution No. xxxx-xx-xxxx

Exhibit A – The Initial Service Plan

Exhibit B – Financial Reports

Exhibit C – Tourism PID Assessment Collection Process

Exhibit D – SATPIDC/VSA Contract

THE STATE OF TEXAS       §  
  §  
COUNTY OF BEXAR       §

This instrument was ACKNOWLEDGED before me on Xxxxxxx xx, 2018, by \_\_\_\_\_  
\_\_\_\_\_, City Manager of the City of San Antonio, a Texas municipal corporation, on behalf of  
the City of San Antonio.

\_\_\_\_\_  
Notary Public - State of Texas

My Commission Expires:

\_\_\_\_\_  
Printed Name of Notary Public

THE STATE OF TEXAS       §  
  §  
COUNTY OF BEXAR       §

This instrument was ACKNOWLEDGED before me on Xxxxxxx xx, 2018, by \_\_\_\_\_  
\_\_\_\_\_, the authorized agent of San Antonio Tourism Public Improvement District  
Corporation, Inc., a Texas nonprofit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public - State of Texas

My Commission Expires:

\_\_\_\_\_  
Printed Name of Notary Public

THE STATE OF TEXAS       §  
  §  
COUNTY OF BEXAR       §

This instrument was ACKNOWLEDGED before me on Xxxxxxx xx, 2018, by \_\_\_\_\_  
\_\_\_\_\_, the authorized agent of Visit San Antonio, a Texas nonprofit corporation, on behalf of  
said corporation.

\_\_\_\_\_  
Notary Public - State of Texas

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public

**Resolution No. xxxx-xx-xxxx**

**Exhibit A  
Service Plan**

<b>Year</b>	<b>Marketing</b>	<b>Sales</b>	<b>Industry Partnerships</b>	<b>Research and Administration</b>	<b>Contingency Funds</b>	<b>Total</b>
	<b>45%</b>	<b>45%</b>	<b>5%</b>	<b>3%</b>	<b>2%</b>	<b>100%</b>
2018-19	\$4,689,000	\$4,689,000	\$521,000	\$312,600	\$208,400	\$10,420,000
2019-20	\$4,927,410	\$4,927,410	\$547,490	\$328,494	\$218,996	\$10,949,800
2020-21	\$5,173,591	\$5,173,591	\$574,843	\$344,906	\$229,937	\$11,496,869
2021-22	\$5,432,271	\$5,432,271	\$603,586	\$362,151	\$241,434	\$12,071,713
2022-23	\$5,703,884	\$5,703,884	\$633,765	\$380,259	\$253,506	\$12,675,298
2023-24	\$5,989,078	\$5,989,078	\$665,453	\$399,272	\$266,181	\$13,309,062
2024-25	\$6,288,531	\$6,288,531	\$698,726	\$419,235	\$279,490	\$13,974,513
2025-26	\$6,602,958	\$6,602,958	\$733,662	\$440,197	\$293,465	\$14,673,240
<b>Total</b>	<b>\$44,806,723</b>	<b>\$44,806,723</b>	<b>\$4,978,525</b>	<b>\$2,987,114</b>	<b>\$1,991,409</b>	<b>\$99,570,495</b>

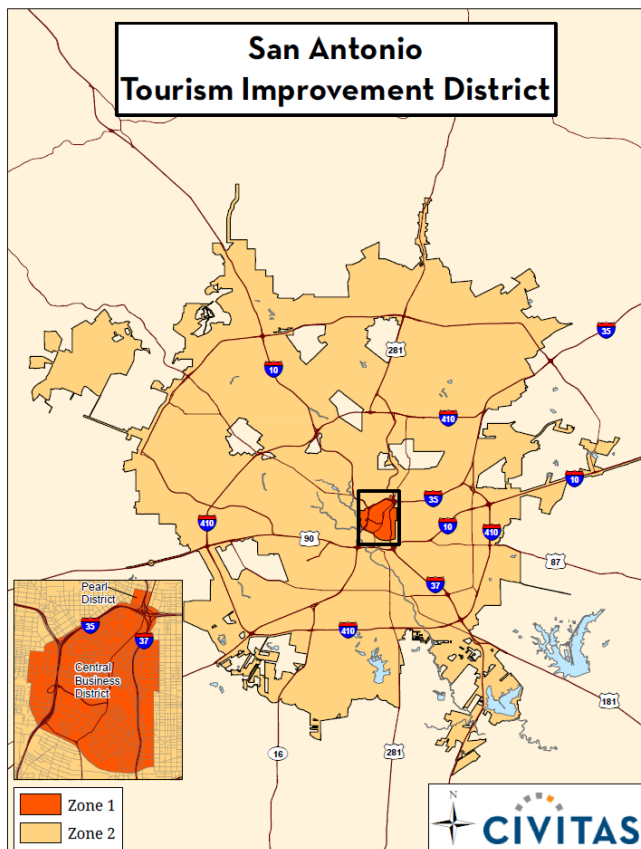
**Exhibit B**

<b>Category</b>	<b>Timeline (annually)</b>
TPID Management Workshop	April/May/June
1 <sup>st</sup> Quarter financial report FY (Cover Letter, P&L, Balance Sheet & Spending Update)	March 15
2 <sup>nd</sup> Quarter financial report FY (Cover Letter, P&L, Balance Sheet & Spending Update)	June 15
3 <sup>rd</sup> Quarter financial report FY (Cover Letter, P&L, Balance Sheet & Spending Update)	September 15
4 <sup>th</sup> Quarter financial report FY (Cover Letter, P&L, Balance Sheet & Spending Update)	November 30
FY Annual Financial Report	November 30
FY Annual Financial Audit Report	January 30
Reports for TPID Assessment (Service Plan, Cover Letter, Ten-Year Assessment Plan & Ten-Year Budget)	June 1



## Exhibit C

**Tourism Public Improvement District (TPID) Assessment:** The San Antonio TPID was created by Resolution No: xxxx-xx-xxxx on Xxxxxxx xx, 2018. A one and one quarter percent (1.25%) TPID assessment was created by Resolution No: xxxx-xx-xxxx on Xxxxxxx xx, 2018, and applies to hotels with 100 or more rooms within the designated TPID within the City of San Antonio. The map below illustrates the proposed San Antonio TPID boundaries. The SATPID boundaries include two (2) zones for purposes of determining SATPIDC Board of Directors representation.



The definitions related to hotel, occupancy, collection procedures, remedies, etc., are applied as referred to in San Antonio City Code and applicable state law.

**TPID Fiscal Year Billing Cycle:** The San Antonio Tourism PID will operate for eight (8) years (xxxxx 1, 2018 to xxxxx xx, 2026). The assessment rate will be approved annually by the City Council.

**TPID Charges/Collection:** The one and one quarter percent (1.25%) assessment only applies to hotel charges that are subject to city hotel occupancy tax at hotels with 100 or more rooms. The TPID assessments will be remitted to and collected by the City using the schedule and process that is in place for City hotel occupancy tax payments. Remittances, collection and any penalties shall occur in accordance with city ordinance and state law.

Exhibit D

VISIT SAN ANTONIO (VSA) & SAN ANTONIO TOURISM PUBLIC IMPROVEMENT DISTRICT CORPORATION (SATPIDC)

EFFECTIVE DATE:	xxxxx 1, 2018
TERM OF AGREEMENT:	96 months
CONTRACT AMOUNT:	\$99,570,495 est.
VSA CONTACT:	Casandra Matej President & CEO, Visit San Antonio 203 S. St. Mary's, Suite 200 San Antonio, TX 78249
VSA PHONE NUMBER:	210-207-6723
VSA EMAIL:	Casandra.matej@visitsanantonio.com
SATPIDC CONTACT:	Liza Barratachea or Current SATPIDC Chair 119 Heiman, Ste. 300 San Antonio, TX 78205
SATPIDC PHONE NUMBER:	210-558-6565
SATPIDC EMAIL:	liza@sahla.org

This Agreement (the "Agreement") is between **VISIT SAN ANTONIO** ("VSA"), with its principal place of business at 203 S. St. Mary's, Suite 200, San Antonio, Texas 78249 and the **SAN ANTONIO TOURISM PUBLIC IMPROVEMENT DISTRICT CORPORATION** (hereinafter "SATPIDC"), with its principal place of business at 119 Heiman, Ste. 300, San Antonio, Texas 78205.

Whereas the Texas Legislature has provided the authority to the City of San Antonio to create a Tourism Public Improvement District that is composed solely of hotels with 100 or more rooms.

Whereas the City of San Antonio has received petitions from more than the requisite number of properties within the proposed Tourism Public Improvement District to enable the creation of the district.

Whereas the City of San Antonio has held the two required public hearings on the public improvement district and on Xxxxxxx xx, 2018, has approved the creation of a San Antonio Tourism Public Improvement District.

Whereas a group of hoteliers have created a non-profit 501 (c) (6) entity entitled the San Antonio Tourism Public Improvement District Corporation (SATPIDC) with the intention that this entity will oversee the administration of the San Antonio Tourism Public Improvement District.

Whereas it is the intent of the San Antonio Tourism Public Improvement District Corporation Board of Directors to contract with VSA to implement the funded activities of the San Antonio Tourism Public Improvement District.

Whereas VSA is mutually interested in working with the San Antonio Tourism Public Improvement District Corporation Board as a contracted entity to implement the District programs under the project funding guidelines authorized by the San Antonio Tourism Public Improvement District Corporation Board of Directors.

Therefore, be it resolved, in consideration of the mutual covenants and conditions set forth herein and in Exhibits and Attachments hereto, all of which are incorporated herein by reference, VSA and SATPIDC agree as follows:

Subject to the terms and conditions specified in Exhibits 1 and 2 hereto, SATPIDC agrees to contract with VSA to perform the obligations specified hereto under the Scope of Work Summary in Exhibit 2 with reimbursement for actual expenses and services by VSA and other entities for implementation of the work, as provided in the San Antonio Tourism Public Improvement District Service Plan and Budget.

**VISIT SAN ANTONIO  
("VSA")**

**SAN ANTONIO TOURISM PUBLIC  
IMPROVEMENT DISTRICT  
CORPORATION  
("SATPIDC")**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Casandra Matej

Name: xxxxxxx xxxxxxxx

Title: Chief Executive Officer (CEO)

Title: Chairman

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 1

### STANDARD TERMS AND CONDITIONS

1. **REPRESENTATIONS AND WARRANTIES.** VSA and SATPIDC each warrant and represent that (i) it has the power and authority to grant the rights and perform the obligations to which it commits herein; (ii) the execution of the Agreement by the person representing it will be sufficient to render the Agreement binding upon it; and (iii) neither its performance hereunder nor the exercise by the other party of rights granted by the warranting party hereunder will violate any applicable laws or regulations, or the legal rights of any third parties, or the terms of any other agreement to which the warranting party is or becomes a party. Each party is separately responsible for ensuring that its performance and grant of rights does not constitute any such violation during the Term. No party's approval of advertising or other copy submitted by another will relieve the other's responsibility under this Section.
2. **USE OF TRADE AND SERVICE MARKS.** Nothing contained herein will give either party a license or other right to use the trade or service marks of the other party except as expressly provided for in this agreement. Any such use will require the prior written consent of the party that owns the marks.
3. **CONFIDENTIALITY.** VSA and SATPIDC each agree that they will not use in any way for their own account or the account of any third party, nor will they disclose to any third party, any confidential information revealed to them by the other party which is identified in writing as confidential prior to disclosure. Each party will take such reasonable precautions to protect the confidentiality of such information as are employed to protect the party's own confidential information of a similar nature. It is expressly understood and agreed that all information disclosed by either party, or gained by either party in the course of this agreement, including this agreement, whether files, records, documents, presentations, research material, operational methods, marketing plans or strategies, electronic data, tapes, software, drawings, manuals, guidebooks, reports, plans, proposals, customer lists, business processes, know-how, specifications, or any other information not generally known outside of VSA or SATPIDC (collectively known as "Confidential Information",) shall be considered confidential and shall be retained in confidence.

In furtherance of the business relationship between the parties, it is agreed as follows:

- to take or cause to be taken all reasonable precautions to prevent the disclosure or communication of Confidential Information to third parties consistent with requirements imposed under the Texas Public Information Act;
- that this confidentiality clause shall survive the term of this or any other agreement or understanding the parties may have with each other, and

- that either party will at no time take any action or make any statement that could discredit the reputation of the other party.

4. **TERM AND TERMINATION.** The Agreement will be effective on the Effective Date and will terminate immediately after the completion of the Term. In the event of expiration or early termination of the Agreement, the terms of Section 3 above and Sections 5, 6, and 9 below will forever survive the termination of the Agreement. Either party may terminate the Agreement in the event of a material default by the other party on any of its representations, warranties, or obligations under the Agreement by the following procedure: (i) the non-defaulting party will provide the defaulting party with written notice specifying the particulars of the default; (ii) if the default is not cured within thirty (30) days after such notice is given, the non-defaulting party may terminate the Agreement immediately upon providing written notice to the defaulting party. Additionally, SATPIDC may terminate the Agreement due to a finding of failure to meet performance expectations including but not limited to ROI requirements that are set by the SATPIDC Board and within the SATPIDC Bylaws. Such termination must be preceded by 120 days notice of the performance issues and an opportunity provided during that time for VSA to address any such issues to the SATPIDC Board's satisfaction. If VSA does not cure such performance failures by the end of these 120 days, then the SATPIDC Board may choose to terminate the Agreement for the following budget year. Upon provision of termination notice by either party, and except to the extent the other party intends to timely cure its default, both parties will engage in good faith negotiations to arrange for a mutually satisfactory end to the Agreement. In the event of any termination prior to the natural expiration of the Term, VSA shall be entitled to payment for deliverables in progress to the extent work has been performed satisfactorily.

5. **INDEMNIFICATION.** SATPIDC will indemnify and hold harmless VSA and its respective institutions, officers, directors, employees, franchisees, attorneys, agents, successors and assigns from any claims, damages, liabilities, losses, government procedures, and costs, including reasonable attorneys' fees and costs of suit, arising out of (i) SATPIDC's failure to comply with applicable laws and regulations, unauthorized use of VSA's trademarks or negligence or willful misconduct in connection with its performance of the Agreement; or (ii) SATPIDC's intentional misrepresentation or breach of any warranty, obligation or covenant of the Agreement.

VSA will indemnify and hold harmless SATPIDC and its respective institutions, officers, directors, employees, franchisees, attorneys, agents, successors and assigns from any claims, damages, liabilities, losses, government procedures and costs, including reasonable attorneys' fees and costs of suit, arising out of (i) VSA's failure to comply with applicable laws and regulations, unauthorized use of SATPIDC's trademarks or negligence or willful misconduct in connection with its performance of the Agreement; or (ii) VSA's intentional misrepresentation or breach of any warranty, obligation or covenant of the Agreement.

Except in the case of third party claims, neither party will be obligated to the other party for indirect, special, consequential, or incidental damages.

6. **DISPUTE RESOLUTION.**

- a. All claims, disputes or controversies between the parties under this Agreement (“Claim”) that cannot be resolved through ordinary business negotiations will be resolved, at the election of either party, through mediation until such time as the parties mutually agree to terminate such mediation or the mediator declares an impasse.
- b. All offers, promises, conduct and statements, whether written or oral, made in the course of negotiation, or proceedings by either party to confirm awards hereunder are confidential, privileged, and inadmissible for any purpose, including, without limitation, impeachment or estoppel, in any other litigation or proceeding involving any of the parties, provided that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the negotiation or arbitration.

7. **RELATIONSHIP OF THE PARTIES.** VSA and SATPIDC are independent contractors, and the Agreement does not create a partnership, joint venture, employee/employer or other agency relationship between them.

8. **ASSIGNMENT.** The Agreement will be binding on and inure to the benefit of each of the parties, their successors and assigns. It may not be assigned or transferred, in whole or in part, without the written consent of the other party. Any such assignment or transfer without consent will be void.

9. **NOTICES.** All notices and other communications required to be given under the Agreement shall be in writing and shall be deemed to have been given (i) when personally delivered; or (ii) three (3) business days after mailing, postage prepaid, by certified mail; or (iii) when delivered (and receipted for) by an overnight delivery service, addressed in each case to the parties at the addresses set forth on the Agreement unless a different address shall have been designated in writing.

10. **GOVERNING LAW.** The Agreement will be governed by the laws of the State of Texas, without giving effect to its conflicts of law provisions. Any failure by either of the parties to exercise any right granted herein upon the occurrence of any contingency set forth in this Agreement will not in any event constitute a waiver of any such right upon the exercise of any such contingency. In case any term in this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term shall be in any way affected thereby.

11. **OWNERSHIP.** All records, reports, documents and other material delivered or transmitted to SATPIDC by VSA shall remain the joint property of VSA and SATPIDC, and shall, upon request, a copy of such documents and other materials shall be returned by SATPIDC to

VSA, at SATPIDC's expense, at termination or expiration of this contract. All records, reports, documents, or other material related to this contract and/or obtained or prepared by SATPIDC in connection with the performance of the services contracted for herein shall become the joint property of SATPIDC and VSA, and shall, upon request, a copy of such documents and other materials shall be returned by VSA to SATPIDC, at VSA's expense, at termination or expiration of this contract.

12. **INSPECTION AND AUDIT.** The SATPIDC, or its authorized agents or representatives, shall have the option of reviewing, examining, and/or auditing all accounts, records, documents, books, and other supporting materials of VSA relating to this contract. VSA shall provide reasonable access to such material at no charge.
13. **FUNDING.** The continuation of this contract is contingent upon the approval of funds to fulfill the requirements of the contract by the City of San Antonio. If the City fails to approve sufficient monies to provide for the continuation of the contract, or if such approval is denied, the contract shall terminate pursuant to Section 4 above.
14. **AMENDMENTS IN WRITING.** Any alteration, variation, modification, or waiver of provisions of this contract shall be valid only when it has been reduced to writing and executed by all parties. The effective date of this contract may be extended only if an amendment to that effect is duly executed by the contracting parties and approved by the necessary authorities prior to said termination date.
15. **SEVERABILITY.** If any provision of the Contract is declared or found to be illegal, unenforceable or void, in whole or in part, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that it is illegal, unenforceable or void, it being the intent and agreement of the parties that the Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substitution therefore another provision that is legal and enforceable and achieves the same objectives. Any such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract. The parties agree to negotiate in good faith for a proper amendment to the Contract in the event any provision thereof is declared illegal, invalid or unenforceable.
16. **ENTIRE AGREEMENT.** This Contract contained in Exhibit D between VSA and SATPIDC and Exhibits 1 and 2 and the attached contract between VSA, SATPIDC, and the City and related exhibits thereto constitute the entire agreement and understanding between VSA and SATPIDC, and there are no other agreements, representatives, warranties or understandings between VSA and SATPIDC with respect to the subject matter hereof. To the extent that any other agreement, written or verbal, appears to exist between the parties with respect to the subject matter hereof, the Contract supersedes any such agreement.

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## EXHIBIT 2

### **SCOPE OF WORK for Visit San Antonio (VSA) on behalf of the San Antonio Tourism Public Improvement District (SATPID) and the San Antonio Tourism Public Improvement District Corporation (SATPIDC)**

#### **Summary**

Visit San Antonio (VSA) proposes to contract with the San Antonio Tourism Public Improvement District Corporation (SATPIDC). The contract will enable VSA to implement additional marketing and sales programs to secure increased transient, business, convention, group, and other hotel activity to the City of San Antonio. The contract will be funded by San Antonio Tourism Public Improvement District (SATPID) proceeds received from a one and one quarter percent (1.25%) special assessment levied against all hotels with 100 or more rooms within the City of San Antonio.

To implement this program, the SATPIDC Board will adopt an annual budget along with specific ROI requirements for marketing and sales initiatives. The SATPIDC Board shall adopt sales and marketing policies and protocols under which VSA can, pursuant to advance approval by the SATPIDC Board, implement projects if the project meets the designated criteria adopted by the SATPIDC Board. The SATPIDC Board may choose to provide adjustments to the annual plan throughout the budget year that are consistent with the annual adopted SATPID budget and service plan, including the shifting of resources as provided for in the "Shifting Between Expenditure Categories" section of this Exhibit. VSA shall expend SATPID proceeds only for proposals that meet the ROI standards and protocols adopted by the SATPIDC Board of Directors unless a specific exception is approved by a two-thirds majority of the SATPIDC Board of Directors with the intent of achieving key long term goals of the SATPIDC as identified by the Board.

**Mission of the SATPID:** The San Antonio Tourism Public Improvement District is a public improvement district dedicated to increasing demand for transient, business, convention, group, and other hotel room night consumption in the City of San Antonio.

**Purpose of the Public Improvement District and the Non-Profit Corporation:** The creation of the San Antonio Tourism Public Improvement District and of the San Antonio Tourism Public Improvement District Corporation is to ensure the effective and judicious allocation of district assessment revenues to accomplish the above noted mission of the District.

#### **Start-Up Costs for Creation of the PID**

It is understood by both the SATPIDC and by VSA that there are certain start-up costs for creation of the district. These costs include the consulting, legal, and administrative services that enabled creation of the district. State law provides for the reimbursement of these costs

from the proceeds of the District once it is established and VSA will coordinate the presentation for payment/reimbursement of these costs to the SATPIDC Board for their approval. These costs must be consistent with the approved budget categories within the service plan.

### **General SATPID Operations**

**Obligations and Expenditures:** VSA is authorized to enter into contracts and otherwise obligate and spend SATPID funds only in accordance with the SATPIDC Board approved budget and plan. VSA shall not incur obligations or indebtedness for the current or any future fiscal year in excess of its fund balance and/or anticipated revenues that will be available by the fiscal year in which the obligation must be paid.

Requisitions to utilize SATPID funds will only be sought by VSA staff for initiatives that meet the SATPIDC ROI criteria as outlined in the SATPID budget and operating plan, unless a specific exception is approved by a two-thirds majority of the SATPIDC Board of Directors. The VSA CFO must review all such expenditures to ensure compliance with this agreement and the approved SATPID budget and plan. Staff utilizing SATPID funds shall be bound by current VSA travel and expense policies.

**Maintenance of SATPIDC Funds:** All assessment funds received from the City of San Antonio for the SATPID shall be deposited in a bank account separate from all other VSA funds. Utilized banking institutions shall be FDIC insured and maintain a minimum of either a Moody's rating of "Baa1" or higher, or a Standard & Poor's rating of "BBB+" or higher. An annual investment strategy and goals shall be presented to the SATPIDC Board as part of the annual plan and budget approval process for funds that do not need to be reserved for maintenance and operation of the district.

**Insurance and Audit Services:** VSA shall secure insurance and financial and performance audit services for matters pertaining to the SATPID. Recommendations will be brought to the SATPIDC Board for approval. The completed performance and annual audit reports will be provided to the SATPIDC Board and to the City Manager for the City of San Antonio.

### **Staffing Pattern and Duties Summary**

VSA will accomplish its contractual duties for the SATPIDC and the SATPID through a mix of contracts with outside firms, very limited hiring of new staff, and utilization of existing VSA staff. The proposed costs for each of these supplemental resources will be presented to the SATPIDC Board during the annual budget approval process and shall be solely based on the percentage of time spent on SATPID functions that are within the approved SATPID service plan. These costs must be consistent with the approved budget categories within the service plan.

### **Approvals from SATPIDC Board**

**Approval of Budget, Operating Plan, and Amendments/Exceptions:** The annual SATPID budget and operating plan will be presented to the SATPIDC Board for approval at a meeting at least 30 days prior to the start of each fiscal year, other than the initial fiscal year of the SATPID. Proposed amendments or exceptions to the annual plan or to the ROI protocols may be presented to the SATPIDC Board for approval at their quarterly meetings. If there is a very time sensitive matter, recommendations for amendments or exceptions may be presented to the SATPIDC Board at other times through email or specially called meetings, in accordance with the SATPIDC bylaws or board approved operational policies. For the purposes of this agreement, amendments may also include the addition or deletion of previously approved marketing or sales initiatives.

**Overall Goals for SATPID Marketing and Promotion Initiatives:** The goals of the SATPID marketing and promotion initiatives will be outlined definitively in each year's annual plan that will be approved by the SATPIDC Board. The target audience will include convention and meeting planners, business travelers, and leisure travelers.

**Requests for Exceptions to ROI Requirements:** While VSA does not anticipate the need to ask for exceptions to the ROI Requirement, it is possible that such a situation may present itself. For example, there may be a business prospect that requires more sales initiatives than the ROI in lodging nights would indicate (e.g.; conventions held by ASAE, MPI, etc.) but offers the city and its hotel sector access to entities that can bring much other needed conventions and groups to our area. In such scenarios and other meritorious situations, VSA staff may bring such items up for consideration to the SATPIDC Board for their review and consideration. A brief summary of the anticipated ROI and an explanation of the grounds for considering an exception will be provided to the SATPIDC Board. Whether to grant such an exception will be at the discretion of the SATPIDC Board. Similarly, the SATPIDC Board, one of its members, or a funding hotel within the district may propose such an item for consideration by the SATPIDC Board for its review and consideration.

**Shifting Between Expenditure Categories:** VSA has the authority to propose to the SATPIDC Board a shifting of resources between categories for approved activities and efforts. Shifts between categories shall not exceed 10%. Similarly, the SATPIDC Board on its own motion may propose, approve and require such a shifting of resources.

**Conflict of Interest Administration:** It is possible that certain hotel members of the SATPIDC, and in certain cases a majority of the board, will have an interest in a city-wide or regional convention or meeting that may be marketed through the SATPID. In such cases, VSA shall work with the involved board member(s) to file the appropriate conflict of interest forms as outlined in the bylaws for the SATPIDC and shall secure the needed votes to authorize the project as outlined in the bylaws for the SATPIDC.

**Reports to the SATPIDC Board**

**Reports on Status of Projects/Expenditures:** Quarterly and annual reports shall be provided to the SATPIDC Board on the progress of VSA staff in implementation of the SATPID programs. These reports will indicate the status of progress on the approved plan, financial statements, and bank balances showing the timing of actual SATPID revenues and expenses. The quarterly financial statement, balance sheet, and statement of activities shall be maintained and presented in compliance with General Accepted Accounting Principles (GAAP) for non-profit corporations. These reports shall be similar to those currently produced by VSA, incorporating the items contained in the SATPIDC board approved plan and budget.

VSA staff will also provide courtesy copies of the quarterly and annual reports to the City Manager for the City of San Antonio for further distribution.

**Financial Statements:** Financial statements will show the timing in which actual assessments will be collected and when they will be spent. In accordance with standard practices, VSA may book meetings that will be held a number of years later. In this case, a meeting may be booked, and an obligation made, in one year; but the sales initiative expense will not actualize until the meeting occurs (up to twenty years in the future). With this in mind, revenues may be shown over the eight-year term of the district, while expenses are shown over a twenty-year period (twelve years past the initial eight-year term of the PID). Balances are to be carried forward, and all SATPID assessments along with any earned interest will be proposed for expenditure over the booking period for eligible SATPID marketing, events, and programs. In accordance with city and state law, any funds not obligated during the term of the district must be returned to the city for distribution back to the assessed properties.

**Access to SATPID Materials:** Reasonable access to all SATPID related materials and information shall also be available to the SATPIDC Board at all times. Courtesy copies of quarterly and annual reports will be emailed to the San Antonio City Manager for further appropriate distribution. Requests for access to SATPID documents by other parties will be handled as required under the Texas Public Information Act.

**Orientation for the San Antonio SATPIDC Board:** An annual orientation shall be done for the SATPIDC Board on the administration of the SATPID, board roles and responsibilities, and the responsibilities of VSA under this contract.

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