

AGREEMENT FOR SERVICES

The Capital Improvement Board of Managers of Marion County (“CIB”) and Visit Indy Inc., (“VI”) enter into this Agreement for Services (“Agreement”) on the 8th day of December, 2022.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein made and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CIB and VI agree as follows:

1) VI shall, as an independent contractor, render and perform the following services (“Services”) to and/or for the benefit of the CIB:

(a) To assist the CIB in acquiring and servicing users of the Indiana Convention Center and Lucas Oil Stadium (“ICCLOS”), such as conventions, meetings, trade shows, exhibitions, athletic contests and other events, and in promoting, marketing and advertising the City of Indianapolis as a site for all listed activities and as a destination for group tours and pleasure travel.

(b) CIB authorizes VI to commit CIB to rent space to event planners and organizers on CIB’s behalf as follows:

Indiana Convention Center - To gain commitments to hold meetings and events which are to take place 14 months or further into the future.

Lucas Oil Stadium – For the months of January through March, to gain commitments to hold meetings and events which are to take place 36 months or further into the future. For the months of April through December, to gain commitments to hold meetings and events which are to take place 24 months or further into the future. Indianapolis Colts football schedule has date priority including the potential for post-season games.

VI only shall have the authority as specifically set forth in this Section 1(b). Any changes shall only occur by the mutual agreement of VI and CIB and documented in writing.

The Services shall be provided in a professional and competent manner and shall be performed by experienced and trained personnel. At all times VI shall proceed in a manner that complies with the CIB’s rules, regulations and requirements which are then in effect and are applicable to persons and/or entities who are providing work or services in facilities which are owned and/or operated by the CIB. These rules, regulations, and requirements are subject to change at any time, with notice of any such change to be mailed to VI at the address listed in section 19 of this Agreement and, upon receipt of such notice, VI agrees to adhere to such rules, regulations and requirements as so changed or otherwise amended. In no event shall the provisions of this paragraph apply as to how VI contracts for third party services or products other than such contractors must adhere to

the aforementioned rules, regulations and requirements while in or near CIB owned or operated premises.

2) The term of this Agreement shall commence January 1, 2023 and continue until December 31, 2023.

3) In full consideration of the Services which have now been or will hereafter be rendered by VI pursuant to this Agreement, the CIB shall make payment to VI as follows:

a) 2023 Base Fee. CIB and VI agree that the Base Fee to be paid to VI for calendar year 2023 is Thirteen Million, Four Hundred Fifty Thousand and No/100 Dollars (\$13,450,000.00) (2023 Base Fee). The 2023 Base Fee shall be paid in twelve equal monthly installments of One Million One Hundred Twenty Thousand Eight Hundred Thirty-Three and 33/100 Dollars (\$1,120,833.33) during calendar year 2023.

Each monthly Base Fee payment as described in subsection 3(a) above (as may be adjusted pursuant to the terms and conditions of this Agreement), shall be made by the CIB and delivered to VI within seven (7) calendar days following the meeting of the CIB's Board of Directors as held in that month.

4) CIB to provide (at no cost) up to 65 non-reserved parking spaces in Lot B for VI staff to use during normal business hours. These spaces may not be available at certain times due to events, etc. VI will be afforded an opportunity to park at Virginia Avenue Garage, (VAG), if spaces are available when Lot B is not. If no spaces area available (either Lot B or VAG) VI will be required to find parking elsewhere at VI expense.

5) During the term, CIB shall provide office space complimentary (approximately 20,400 square feet) on the third floor of Phase Five for use exclusively by VI.

6) Reporting and Monitoring. Two CIB members, as selected by the CIB, together with the Executive Director of the CIB shall serve as non-voting ex-officio members of the Board of Directors of VI. The President of the CIB shall have the right to designate no less than two members of the five member VI Nominating Committee that is responsible for nominating members of the VI Board of Directors and its Executive Committee.

The CIB shall receive a copy of the minutes of the VI board meetings and a copy of the VI annual report. The President of VI, or his designee, shall formally report to the CIB not less than every six (6) months or as requested by the CIB.

7) VI shall be responsible to the CIB for the acts or omissions of the VI's agents, employees, supervisors and its subcontractors, consultants or other parties, if any, for whom VI is responsible with respect to the Services provided under this Agreement. The Services provided by and conduct of VI shall comply with all laws, ordinances, rules, codes, regulations and lawful orders of public authorities applicable to the Services or other activities provided under this Agreement. VI shall remain the controlling employer of all persons and entities who, in whole or in part, are providing the Services required under this Agreement and VI shall be solely responsible

for all safety precautions and procedures related to or arising out of its Services (or any other activities) while VI (or those for whom VI is responsible) are on or about the CIB's facilities, including the safety of persons or property and their protection from damage, injury or loss and for compliance with all requirements of OSHA and/or IOSHA. VI shall perform its Services in a manner which will: provide for the safety of individuals who are working at or visiting the facility (including the general public and the CIB's invitees, licensees, contractors or employees); allow for the continued operation of the facility in accordance with all applicable laws, ordinances, rules, regulations and lawful orders of public authorities; avoid unreasonable disruption to the continued operation of the facility (including scheduling its Services in a manner approved by the CIB so as not to preclude or interfere with events that are booked in the facility); and avoid situations which would compromise the security and protection of the facility. To the extent the CIB establishes any safety rules or regulations applicable to its employees or if the CIB's employees, representatives or agents undertake or provide any safety related services, such rules, regulations or services by the CIB are rendered solely for the benefit of the CIB and not for the benefit of VI, its agents, employees, supervisors, subcontractors or consultants.

8) **Insurance.** VI shall purchase and maintain at least the minimum coverages, limits and terms of insurance set forth below, as will protect VI and CIB from claims that may arise out of or result from the Services and other activities provided by VI, its employees, subcontractors, consultants or other parties, if any, for whom VI is responsible.

- **Workers Compensation** Statutory Requirement

- **Employer's Liability**

Bodily Injury by Accident	\$500,000/each accident
Bodily Injury by Disease	\$500,000/policy limits
Bodily Injury by Disease	\$500,000/each employee

- **Commercial General Liability**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal Injury (with Employment Exclusion Deleted) and Advertising Injury	\$1,000,000
Each Occurrence Limit	\$1,000,000
Damages to Rented Premises	\$100,000

Coverage provided by this policy shall include contractual coverage for liability assumed by contract. Products/Completed Operations Coverage shall be maintained for two (2) years following the end of the term of this Agreement and VI shall provide a Certificate of Insurance showing that this coverage remains in effect (Endorsement providing additional insured status for ongoing Products/Completed Operations shall be ISO Forms CG 20 10 11 85, or a combination of ISO Forms CG 20 10 10 01 and CG 20 37 01, or substitute forms approved by the CIB, in writing, which provide equivalent coverage).

- **Automobile** (for all owned, non-owned and hired vehicles, as well as uninsured and underinsured vehicles)

Combined Single Limit	\$1,000,000
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- **Umbrella/Excess** Separate Umbrella policy (written in excess of the Commercial General Liability, Employer’s Liability and Auto policies on a follow form basis).

General Aggregate	\$2,000,000
Each Occurrence	\$2,000,000

VI’s Worker’s Compensation, Employer’s Liability, Commercial General Liability, Automobile and Umbrella/Excess policies shall be endorsed to provide waiver of subrogation in favor of CIB and its officers, board members, employees, agents and representatives.

The CIB, the Marion County Convention and Recreational Facilities Authority (“MCCRFA”), the Indiana Stadium and Convention Building Authority (“ISCBA”) and their officers, board members, employees, agents and representatives (as their interests may appear) shall be added as additional insureds to VI’s Commercial General Liability, Automobile and Umbrella/Excess policies.

The coverage provided by VI’s insurance as set forth herein shall be primary and noncontributory (including VI’s Umbrella/Excess policy to be exhausted vertically above VI’s Commercial General Liability, Employer’s Liability and Automobile policies), with any and all insurance maintained by the CIB, MCCRFA and ISCBA to be excess of VI’s insurance as specified and required above.

All required insurance shall be procured from insurance companies authorized to do business in the State of Indiana and having an A.M. Best Rating of A- (or better). Before commencing its Services, VI shall deliver to CIB a Certificate or Certificates of Insurance evidencing that the required coverages, limits and terms of insurance are in effect. VI shall also provide, if requested by CIB, a duly executed Certificate of Compliance issued by the Indiana Worker’s Compensation Bureau confirming that the required Worker’s Compensation insurance is in full force and effect. If one or more of the policies providing the required coverages, limits and terms of insurance set forth above expire or renew during the term of this Agreement, an updated Certificate of Insurance shall be provided by VI to the CIB, at least ten (10) days before the expiration or renewal of the existing policy, confirming that the required coverages, limits and terms of insurance will remain in place under either a renewal of the existing policy or the procurement of a new policy. CIB shall also have the right at any time during the term of the Agreement (and during any period in which extended coverages are required) to periodically request that an updated Certificate or Certificates of Insurance be provided to confirm that the required coverages, limits and terms of insurance remain in effect. VI shall provide such updated Certificate or Certificates within ten (10) days of receiving such request. If VI fails to timely provide an updated Certificate or Certificates of Insurance as required herein, the CIB may suspend

all further Services by VI and payments due to VI until the required evidence of insurance is provided.

9) VI shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the CIB, MCCRFA, ISCBA and their officers, board members, employees, agents and representatives (“Indemnitees”) from and against all claims, damages, losses and expenses, including but not limited to attorney’s fees, arising out of or relating to the acts or omissions of VI or those for whom VI is responsible, provided such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of VI (or anyone for whom VI is responsible) and regardless of whether caused in part by one or more of the Indemnitees. The indemnification obligation set forth above shall survive completion of the Services and/or termination of this Agreement. With respect to any claim against one or more Indemnitees asserted by an employee of VI (or an employee of those for whom VI is responsible), the indemnification obligation set forth herein shall not be reduced or limited by any statutory cap or other limitation on the amount or type of damages, compensation or other benefits payable by VI (or those for whom VI is responsible) under worker’s compensation acts, disability benefit acts or other employee benefit acts.

10) During the term of this Agreement, VI shall not discriminate against any employee or applicant for employment with respect to hiring, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, because of race, religion, color, sex, sexual orientation, national origin, ancestry, age, disability, disabled veteran status and/or Vietnam Era status. VI agrees to abide by all local, state and federal laws, rules and regulations which apply to employment related matters, including, but not limited to, prohibitions against discrimination. VI’s failure to adhere to the requirements set forth herein shall be considered a material breach of this Agreement and grounds for termination of the Agreement by the CIB.

11) VI shall enroll in and verify the work eligibility status of all hired employees of VI through the E-Verify program as described in Ind. Code § 22-5-1.7-3. VI is not required to verify the work eligibility status of all newly hired employees through the E-Verify program if the E-Verify program no longer exists. Prior to commencing its Services, VI shall sign and provide an affidavit, in a form acceptable to CIB, affirming that VI does not knowingly employ any unauthorized aliens. Neither VI nor its subcontractors or consultants, if any, may knowingly (a) employ or contract with an unauthorized alien or (b) retain an employee or contract with a person that VI or its subcontractor or consultant, if any, subsequently learns is an unauthorized alien. If VI uses subcontractors or consultants to provide any services or other work under this Agreement, VI must obtain certification from each subcontractor or consultant that it (a) does not knowingly employ or contract with any unauthorized aliens, and (b) has enrolled and is participating in the E-Verify program.

12) In accordance with Ind. Code § 5-22-16.5 and on behalf of VI, the undersigned certifies that the VI is not engaged in investment activities in Iran as described in Ind. Code § 5-22-16.5.

13) This Agreement may be terminated by either party upon not less than sixty (60) days written notice should the other party materially fail to perform in accordance with the terms and conditions of this Agreement. Termination for cause under this provision shall not be allowed if the failure to perform is cured within the sixty (60) day notice period.

14) The parties shall endeavor to resolve any claims or disputes which may hereafter arise by mediation. The mediator shall be selected by mutual agreement of the parties and if an agreement cannot be reached the mediator shall be selected and the mediation shall be administered by the American Arbitration Association in accordance with its Commercial Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of litigation but, in such event, mediation shall proceed in advance of litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. Any claim not resolved by mediation, shall be heard and decided in litigation by a Court which sits in Marion County, Indiana. In the event a claim is decided by litigation, the prevailing party shall be entitled to recover its reasonable attorney's fees, expert costs, witness fees, court costs and other litigation expenses which it incurred in prosecuting or defending the claim.

15) This Agreement represents the entire and integrated agreement between the CIB and VI with respect to the Services and the other terms and conditions as set forth herein and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written agreement signed by both CIB and VI.

16) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. An electronic or facsimile signature of any party shall be considered to have the same binding effect as an original signature.

17) This Agreement shall be governed by and construed in accordance with the procedural and substantive laws of the State of Indiana, without reference to Indiana's choice of law principals.

18) VI shall, during the term of this Agreement and for a period of three (3) years following termination of this Agreement, maintain all applicable books and records relating to the Services which it performs under this Agreement. CIB shall have the right, at any time during this period, to review and/or audit the books and records of the VI applicable to the Services provided under this Agreement. The CIB may conduct such review by its own employees or the CIB may elect to retain an auditor, accountant or other consultant to conduct such review or to audit such books and records. VI agrees to fully comply with the CIB's review and/or audit, including making available its books and records applicable to its Services during normal working hours at no cost to the CIB.

19) The parties hereto acknowledge that IC 5-14-3 ("APRA") applies to the CIB. To the extent provided per APRA, each party hereto is responsible for maintaining the confidentiality of the confidential records that it receives from the other party, as applicable. In the event either

party becomes the subject of a legal or administrative challenge (collectively, the “Challenged Party”) as a result of refusing to disclose a record of the other party, the party whose record is at issue shall be responsible for taking any and all actions necessary to defend and/or establish the legal basis for confidential treatment, including but not limited to responsibility for the costs that such party incurs in so doing. Notwithstanding anything to the contrary in this Agreement, the Challenged Party shall have the ultimate and sole authority to disclose the record that is or has become subject to a legal or administrative challenge. The responsibilities of this section shall survive completion of the Services and/or termination of this Agreement. Each party recognizes that, in furtherance of this Agreement, it might be the recipient of confidential information and trade secrets of the other. Each party agrees that any information disclosed by one party to the other which is not public in nature and not subject to the public records act cited above shall be maintained in strict confidence and not disclosed to any third party; further, such confidential information or trade secrets shall not be disclosed to any employee or agent of the recipient who does not have a need to be knowledgeable of such disclosed information.


20) Any notice, demand, complaint, request or submission required to be given under this Agreement shall be in writing and shall be served by personal delivery, United States mail, courier service, overnight delivery or electronic mail as follows:

Upon the CIB: Andrew J. Mallon
Executive Director
Indiana Convention Center and Lucas Oil Stadium
100 South Capitol Avenue
Indianapolis, IN 46225
andy.mallon@ICCLOS.com

Upon VI: Leonard Hoops
President and CEO
Visit Indy Inc.
200 South Capitol Avenue, Suite 300
Indianapolis, IN 46225
lhoops@visitindy.com

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CAPITAL IMPROVEMENT BOARD
OF MANAGERS OF MARION COUNTY

By: 
Andy Mallon (Dec 16, 2022 13:49 EST)

Andrew J. Mallon
Executive Director

VISIT INDY INC.

By: 
Leonard Hoops (Dec 16, 2022 09:43 EST)

Leonard Hoops
President and CEO










Visit Indy- 2023 Agreement for Services 12-6-22

Final Audit Report

2022-12-16

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By:	Bobbie Green (Bobbie.green@icclos.com)
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-  Document created by Bobbie Green (Bobbie.green@icclos.com)
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-  Email viewed by lhoops@visitindy.com
2022-12-16 - 2:41:56 PM GMT- IP address: 47.227.24.113
-  Signer lhoops@visitindy.com entered name at signing as Leonard Hoops
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-  Document e-signed by Leonard Hoops (lhoops@visitindy.com)
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-  Document emailed to Andy Mallon (andy.mallon@icclos.com) for signature
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