

**NORTH CAROLINA  
PITT COUNTY****INTERLOCAL  
AGREEMENT**

THIS AGREEMENT, made and entered into this the 18th day of September, 1997, by and between the City of Greenville, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the CITY, Pitt County, a political subdivision of the State of North Carolina established and operating pursuant to the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the COUNTY, and the Pitt-Greenville Convention and Visitors Authority, an authority duly organized and operating pursuant to the laws of the State of North Carolina, Party of the Third Part and hereinafter referred to as the AUTHORITY;

**WITNESSETH:**

WHEREAS, the CITY, pursuant to the provisions of North Carolina General Statute 160A-489, and the COUNTY, pursuant to the provisions of North Carolina General Statute 153A-445(a)(7), are authorized to establish and support a convention center;

WHEREAS, pursuant to the aforementioned authority and the provisions of North Carolina General Statute 158-7.1, the CITY and COUNTY are authorized to engage in marketing and promotion efforts relating to the convention center and travel and tourism;

WHEREAS, pursuant to the provisions of Chapter 143 of the 1987 Session Laws of the North Carolina General Assembly, and Chapter 410 of the 1993 Session Laws of the North Carolina General Assembly, the AUTHORITY is authorized to engage in marketing and promotion activities and establish and support a convention center;

WHEREAS, Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes

empowers the CITY, COUNTY, and AUTHORITY to enter into an interlocal agreement in order to execute an undertaking whereby a unit of local government exercises any power, function, public enterprise, right, privilege, or immunity either jointly with or on behalf of another unit of local government;

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and promises contained herein, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to provide for the construction, maintenance, operation, and marketing of a convention center within the corporate limits of Greenville, North Carolina and to provide for the promotion of travel and tourism and other tourism-related expenditures to benefit areas within the corporate limits of Greenville and Pitt County, North Carolina.
2. Development of Convention Center. The CITY shall proceed with the development of a convention center within the corporate limits of the City of Greenville. The CITY shall in its sole discretion be empowered to determine all matters relating to the establishment and support of said convention center including, but not limited to, all matters relating to financing, constructing, maintaining, operating, and marketing the convention center.
3. Marketing and Promotion. The AUTHORITY shall promote travel and tourism and make tourism-related expenditures for Pitt County and the City of Greenville. Promotion of travel and tourism shall mean to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. Tourism-related expenditures mean expenditures designed to increase the use of lodging facilities

and to attract tourists or business travelers to the area.

4. Collection of Tax. The COUNTY shall collect the room occupancy tax levied under the provisions of Chapter 143 of the 1987 Session Laws and Chapter 410 of the 1993 Session Laws, said room occupancy tax being hereinafter referred to as the Tax and said Chapter 143 of the 1987 Session Laws and Chapter 410 of the 1993 Session Laws being hereinafter referred to as the Enabling Legislation. The COUNTY shall, on a monthly basis, distribute the net proceeds, as defined in the Enabling Legislation, of the Tax to the AUTHORITY. The AUTHORITY shall within ten (10) days after its receipt, remit to the CITY the amount it receives from the COUNTY for use in accordance with the purposes set forth in the Enabling Legislation. The CITY shall allocate and disburse on behalf of the AUTHORITY the funds necessary for the AUTHORITY to promote travel and tourism and make tourism-related expenditures in accordance with the annual budget of the AUTHORITY as approved by the CITY and the COUNTY, said disbursement to occur as the funds are required.
5. Use of Tax Proceeds. The proceeds of the Tax levied pursuant to the Enabling Legislation shall be expended in accordance with the purposes set forth in the Enabling Legislation, said purposes being as follows:
  - (a) At least two-thirds of the net proceeds from the Tax levied pursuant to the authority of Chapter 143 of the 1987 Session Laws shall be used to promote travel and tourism in Pitt County and the City of Greenville. Promotion of travel and tourism shall mean to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
  - (b) The remainder of the net proceeds from the Tax levied pursuant to the authority of Chapter 143 of the 1987 Session Laws shall be used for tourism-related

expenditures. Tourism-related expenditures are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county and expenditures incurred by the COUNTY in collecting the tax. The term tourism-related expenditures includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the AUTHORITY, the COUNTY, and the CITY, will facilitate and support tourism.

- (c) The full net proceeds of the Tax levied pursuant to Chapter 410 of the 1993 Session Laws shall be used for the purpose of refunding funds advanced by the CITY and the COUNTY in the acquisition of property to be used as a convention center and then to finance, construct, maintain, operate, or market a convention center.

6. Method of Use. In expending the proceeds of the Tax in accordance with the Enabling Legislation, it is the intention of the parties hereto to utilize the AUTHORITY as the entity to determine the manner to expend funds for the purposes set forth in Paragraph 5(a) and 5(b) herein, and the CITY as the entity to determine the manner to expend funds for the purposes set forth in Paragraph 5(c) herein. However, in the event the City Council of the CITY in its sole discretion decides that the CITY should determine the manner to expend all or a portion of the funds for the purposes set forth in Paragraph 5(a) and 5(b) herein because of financial constraints attributable to the construction, operation, maintenance, or marketing of the convention center, then the CITY may direct this occurrence through its approval of the annual budget of the AUTHORITY and the funds shall only be expended for their allowable purposes in accordance with the provisions of the Enabling Legislation.

7. CVA Board. The Board of Directors of the AUTHORITY shall consist of members appointed in accordance with the provisions of the Enabling Legislation. The members of the Board of Directors to be appointed by the Board of Commissioners of the COUNTY shall be nominated by the City Council of the CITY. The Board of Commissioners of the

COUNTY has the right to reject any nominee from the City Council of the CITY and request additional nominees. If the City Council of the CITY fails to recommend a nominee to the Board of Commissioners of the COUNTY within sixty (60) days after a written request for nominees is sent by the COUNTY to the CITY, then the Board of Commissioners of the COUNTY may appoint any individual meeting the eligibility requirements of the Enabling Legislation. The Chairman of the AUTHORITY shall be designated by the Board of Commissioners of the COUNTY from a list of three (3) members of the Board of Directors nominated by the City Council of the CITY.

8. Budget. The AUTHORITY shall prepare an annual budget based on anticipated revenues and shall submit the budget to the County Manager of the COUNTY and the City Manager of the CITY on or before the first day of April prior to the commencement of the fiscal year. The CITY shall determine the form in which the annual budget of the AUTHORITY shall be presented and approved, in conformance with the CITY's budget ordinance format. In order for an annual budget of the AUTHORITY to be considered approved, the City Council of the CITY and the Board of Commissioners of the COUNTY shall approve an identical annual budget for the AUTHORITY. If there is a disagreement between the CITY and the COUNTY concerning the approval of the AUTHORITY's budget, on or before the first day of June prior to the commencement of the fiscal year either party shall notify the other that the matter shall be mediated according to the provisions of the Grievance Procedure set out herein. If a new budget has not been approved by both the CITY and the COUNTY prior to July 1, the commencement of the fiscal year, the AUTHORITY shall continue to operate for a period of time not to exceed

sixty (60) days under an interim budget based upon the prior year's budget until a new budget is approved. After the expiration of the sixty (60) day period, the AUTHORITY shall continue to operate on an interim budget only with the approval of the CITY and the COUNTY.

9. Expenditures. The AUTHORITY shall only make expenditures in accordance with the budget approved by the CITY and the COUNTY. In the event the AUTHORITY determines to make an expenditure which is not in accordance with the budget approved by the COUNTY and CITY, it shall submit a request for a budget amendment to the County Manager of the COUNTY and the City Manager of the CITY and no expenditure shall occur unless the COUNTY and CITY approve the necessary budget amendment.
10. Reports. The AUTHORITY shall make quarterly reports to the Board of Commissioners of the COUNTY and the City Council of the CITY detailing its revenues, expenditures, and activities. The AUTHORITY shall have an annual audit report conducted and distributed to the COUNTY and the CITY. The CITY shall select the entity to conduct the annual audit report of the AUTHORITY and the audit report shall be prepared in the form and within the timetable required by Chapter 159 of the North Carolina General Statutes.
11. Employees. The AUTHORITY shall have the power to appoint the personnel necessary to perform its functions pursuant to this Agreement. The AUTHORITY shall implement and maintain its pay plan, personnel policy, and employee benefits similar to those maintained by the CITY. The CITY shall have the power to appoint the personnel necessary to perform its functions pursuant to this Agreement.

12. Replacement Revenue for Repeal or Reduction of Tax. In the event the Tax is repealed or the rate of the Tax is reduced during the term of this Agreement, then the COUNTY shall pay directly to the CITY, replacement revenue in equal monthly payments during the remaining term of this Agreement, so that the CITY may proceed, in accordance with the purposes of this Agreement, with the financing, construction, maintenance, operation, and marketing of the convention center. In determining the amount of the replacement revenue, a benchmark shall be used based upon an average of the annual amount of Tax collected for each three (3) year period prior to repeal or reduction in the rate of the Tax, times the actual percentage of reduction, or one hundred percent (100%) if the Tax is repealed, without legislation which provides full replacement revenue for the Tax. This figure shall be divided by twelve (12) and increased by three and one-half percent (3½%) for each and every year (or portion thereof) during which a reduction in the rate of the Tax or repeal of the Tax affects the collection of the Tax in Pitt County. It is the understanding of the parties that the COUNTY shall not be obligated to replace or supplement the proceeds from the Tax pursuant to the provisions of this paragraph should those funds diminish as a result of any occurrence not related to a repeal of the Tax or reduction in the rate of the Tax. The parties further agree that upon the retirement in its entirety of the CITY's outstanding indebtedness in relation to the development of a convention center, the CITY and the COUNTY upon thirty (30) days written notice to the other parties, shall have the right to renegotiate the terms of this paragraph relating to the repeal or reduction of the Tax and with replacement revenues to be paid by the COUNTY. Further, the parties agree that they shall renegotiate these provisions in good faith, based

upon the circumstances existing at the time, and that should an agreement not be reached, the parties shall settle their dispute according to the terms of the grievance procedure set out in this Agreement.

13. Replacement Revenue for Non-Payment of Monthly Payment. In the event the CITY does not receive from the AUTHORITY a monthly payment of the net proceeds of the Tax in accordance with the provisions of paragraph 4 herein as a result of the COUNTY not making a required monthly payment to the AUTHORITY, then the COUNTY shall pay directly to the CITY replacement revenue so that the CITY may proceed, in accordance with the purposes of this Agreement, with financing, constructing, maintaining, operating, and marketing the convention center. The amount of the replacement revenue shall be equivalent to the amount of the net proceeds, as defined in the Enabling Legislation, of the Tax which the COUNTY is to distribute to the AUTHORITY for the applicable month less the amount of the monthly payment, if any, actually made by the AUTHORITY to the CITY. The monthly payment shall be made within ten (10) days after the CITY notifies the COUNTY of the non-payment of a monthly payment. Upon the receipt of the required monthly payment by the CITY from the AUTHORITY, the CITY shall reimburse the COUNTY within ten (10) days the replacement revenue it received pursuant to the provisions of this paragraph to the extent the CITY receives funds from the AUTHORITY which the replacement revenue supplanted.
14. County Cooperation When Non-Payment of Monthly Payment Occurs. In the event the CITY does not receive from the AUTHORITY a monthly payment of the net proceeds of



the Tax in accordance with the provisions of paragraph 4 herein after the AUTHORITY has received the required monthly payment from the COUNTY, then the COUNTY shall jointly pursue with the CITY the necessary legal action in order to mandate payment.

15. Convention Center Property. The COUNTY shall convey to the CITY its interest in the property described in Deed Book 469 at Page 336-339, Pitt County Registry of Deeds so that the CITY possesses a fee simple interest in said property, said property being hereinafter referred to as the Site. The COUNTY shall convey the Site to the CITY within thirty (30) days after written notice is sent by the CITY to the COUNTY requesting its conveyance. So long as the Site is utilized as a convention center or the Site is disposed of and the proceeds so derived are reinvested in another convention center within Pitt County, the COUNTY and the AUTHORITY shall not receive any proceeds or revenue which are derived or generated from the operation, leasing, or disposal of the Site. In the event that the proceeds are reinvested in another convention center, the CITY and COUNTY shall be entitled to the proceeds of the disposal of the new convention center site in accordance with the terms of this paragraph. In the event the Site is sold or leased for a use other than as a convention center, the proceeds from such disposal shall be disbursed first to the CITY to the extent necessary to retire any outstanding indebtedness relating to the development of the Convention Center upon the Site or upon other property within Pitt County, and second to the CITY and the COUNTY on the basis of 60% to the CITY and 40% to the COUNTY. In the event that the CITY abandons the use of the Site as a convention center and makes use of the Site for a purpose other than as a convention center, the COUNTY shall be entitled to a payment from the CITY

equivalent to forty percent (40%) of the fair market value of the property at the time of its change of use and all other interest of the COUNTY in the Site shall be extinguished, said fair market value to be determined by an appraiser mutually agreed upon by the CITY and COUNTY.

16. Finance Officer. The Finance Officer of the COUNTY shall be the ex-officio Finance Officer of the AUTHORITY. The Finance Officer of the COUNTY shall delegate this responsibility to the Finance Officer of the CITY by the designation of the Finance Officer of the CITY as the Deputy Finance Officer of the AUTHORITY. The CITY, COUNTY, and AUTHORITY consent to the delegation of this responsibility to the Finance Officer of the CITY by the designation of the Finance Officer of the CITY as the Deputy Finance Officer of the AUTHORITY, who shall provide separate bond to the AUTHORITY in connection with the responsibilities of Finance Officer of the AUTHORITY.
17. Limitation on Cost Determination. The COUNTY shall charge for collecting and administering the Tax the same percentage charged by the COUNTY to the CITY for ad valorem tax collections during the same fiscal year, times the amount of Tax collected. In no event shall this amount exceed seven percent (7%) of the amount of Tax collected.
18. Grievance Procedure. In the event the CITY, COUNTY, or AUTHORITY dispute or object to any expenditure, failure to act, or action by any party to this Agreement based upon its not being in accordance with the terms of this Agreement and the Enabling Legislation, or that the CITY and the COUNTY have not approved an identical budget for the AUTHORITY, or that the CITY and the COUNTY have failed to reach agreement upon renegotiation of the terms of paragraph 12 herein, then any party shall provide

written notice to the other parties specifying the objection and the acts necessary to correct said objection. In the event the objection is not corrected within thirty (30) days after notice is sent, then the parties shall submit the objection to non-binding mediation prior to the pursuit of any available legal remedies. Notwithstanding any other provision of this paragraph, in the event the dispute or objection involves the non-payment to the CITY of the net proceeds of the Tax or replacement revenues for the Tax, the CITY may immediately proceed with the pursuit of all available legal remedies.

19. Duration. The term of this Agreement shall be for a period of thirty (30) years commencing on the date first above written. The Agreement may be extended for an additional term upon mutual agreement of the parties.
20. Cancellation. In the event a convention center within the corporate limits of Greenville, North Carolina, has not been substantially constructed as of January 1, 2003, then either the CITY or the COUNTY may terminate this Agreement by providing written notice to the other parties no later than November 1, 2002 of its intent to terminate the Agreement.
21. Notices. All notices, approvals, consents, requests or demands required or permitted to be given under this Agreement shall be in writing and shall be deemed sufficiently given when deposited in the mail, first-class postage prepaid, and addressed to the respective parties as follows:

CITY:  
City Manager  
City of Greenville  
P.O. Box 7207  
Greenville, NC 27835

COUNTY:  
County Manager  
Pitt County  
1717 W. Fifth Street  
Greenville, NC 27834

AUTHORITY:  
Chairman  
Pitt-Greenville Convention and Visitors Authority  
P.O. Box 8027  
Greenville, NC 27835

or to such other addresses as either party shall subsequently designate by notice given in accordance with this section.

22. Assignment of Agreement. It is mutually agreed by the parties hereto that this Agreement is not transferable by any party without the written consent of the other parties to this Agreement. The parties understand and agree that any party may contract with any other person, firm, agency, or entity to advise, assist, or perform any of its functions, powers, duties, responsibilities, or obligations pursuant to this Agreement without the consent of the other parties to the Agreement.
23. Entire Agreement. This Agreement constitutes the entire understanding of the parties.
24. Binding Effect. This Agreement shall be binding upon the successors and assigns of the parties.
25. Continuing Obligation. The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the Agreement.
26. Reference. Use of the masculine includes feminine and neuter, singular includes plural; and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope or intent of the Agreement.

27. Interpretation. All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.
28. Savings Clause. If any section, subsection, paragraph, sentence, clause, phrase or portion of this contract is for any reasons held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
29. Amendments. This Agreement shall not be modified or otherwise amended except in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in triplicate originals, as of the day and year first above written, all pursuant to authority duly granted.

CITY OF GREENVILLE

By: Nancy M. Jenkins  
Nancy M. Jenkins, Mayor  
Contract No. 905; CA: 8-25-97

ATTEST:

Wanda T. Elks  
Wanda T. Elks, City Clerk

APPROVED AS TO FORM:

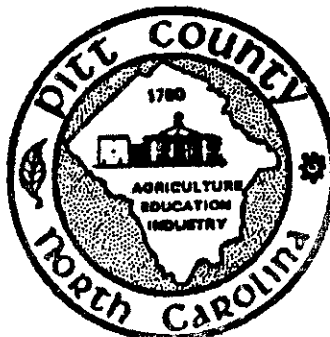
David A. Holec  
David A. Holec, City Attorney

PITT COUNTY

By: Mark W. Owens  
Mark Owens, Chairman

ATTEST:

Susan Banks  
Susan Banks, Clerk to the Board



APPROVED AS TO FORM:

JoAnne Burgdorff  
JoAnne Burgdorff, County Attorney

PITT-GREENVILLE CONVENTION AND VISITORS AUTHORITY

By: S. Rudolph Alexander  
S. Rudolph Alexander, Chairman

ATTEST:

Shane Tucker  
Secretary

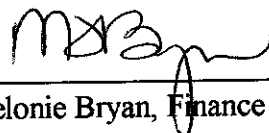
PRE-AUDIT CERTIFICATION

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Bernita Demery  
Bernita Demery, Finance Director  
City of Greenville

**PRE-AUDIT CERTIFICATION**

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.



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Melonie Bryan, Finance Director  
Pitt County

**PRE-AUDIT CERTIFICATION**

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.



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Melonie Bryan, Finance Director  
Pitt-Greenville Convention and Visitors  
Authority