FIRST AMENDMENT TO
THE INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF DURHAM AND
THE COUNTY OF DURHAM REGARDING MEMBERSHIP OF THE
DURHAM TOURISM DEVELOPMENT AUTHORITY

This is the First Amendment to the Interlocal Cooperation Agreement entered into between the County of Durham, a political subdivision of the State of North Carolina (“County”), and the City of Durham, a North Carolina municipal corporation (“City”) on this the 1st day of July, 2004 (hereinafter “First Amendment”).

PREFACE

In December 2001, the General Assembly enacted Chapter 480 of the Session Laws of North Carolina (hereinafter “S.L. 2001-480”), Part II of which consolidated Durham County’s room occupancy tax provisions, authorized a 1% increase of the tax and created the Durham Tourism Development Authority.

In order to effectuate S.L. 2001-480, on April 22, 2002, the City and the County entered into the Interlocal Cooperation Agreement between the City of Durham and the County of Durham regarding Membership of the Durham Tourism Development Authority (hereinafter “Agreement”).

On July 24, 2002, the General Assembly enacted Session Law 2002-36, entitled “An Act to Make Changes To the Durham County Occupancy Tax Provisions.” The Act revised Section S.L. 2001-480 to provide that the Durham Convention and Visitor’s Bureau shall continue to exist but shall act as a tourism development authority and made additional changes regarding the Durham Convention and Visitor’s Bureau.

Therefore, the County and City now desire to amend the Agreement to reflect the changes made by S.L. 2002-36 as follows:

1. The title of the Agreement shall be amended as follows:

THE INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF DURHAM AND
THE COUNTY OF DURHAM REGARDING MEMBERSHIP OF THE
DURHAM CONVENTION AND VISITOR’S BUREAU

2. Paragraph 1 of the Agreement shall be amended as follows:

“1. Purpose. The purpose of this Agreement is to specify the membership of the Durham Convention and Visitors’ Bureau (hereinafter “DCVB”), provide for the number of members and terms of office, specify who shall appoint the membership, and make other such provisions as may be reasonably necessary.”
3. Paragraph 2 shall be amended as follows:

2. Membership of the DCVB.

1. Pursuant to Chapter 480 Session Laws of North Carolina, from March 1, 2002 through June 30, 2004, the members of the board of directors of the Durham Convention and Visitors Bureau (DCVB) and the members of the advisory committee shall together be ex-officio the Board of Directors of the Authority DCVB. The transition to a board membership which meets the criteria established in 2(B) below shall be completed prior to July 1, 2004.

2. Beginning on or before July 1, 2004, the Authority DCVB shall be governed by a Board of Directors consisting of eleven members, with three-fourths of the members, at the time of appointment, active in the promotion of travel, tourism, or conventions in Durham County and one-third of the members affiliated with organizations that collect the room occupancy tax (hereinafter the “Board”).

3. The members of the Board of Directors shall be appointed to the Authority as follows:
   (1) The City Council shall appoint five members as follows:
      - (a) Two representatives from lodging businesses that collect the tax, and are active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
      - One full-service
      - One limited service
      - (b) One representative from food service including restaurants, catering and food and beverage purveyors, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
      - (c) One representative from an entity that generates visitor demand including major employers, universities or meeting planners and who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and
      - (d) One member of the City Council.
   (2) The Board of County Commissioners shall appoint five members.
      - (a) Two representatives from lodging facilities that collect the tax, and are active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
      - One full-service
      - One limited service
      - (b) One representative from retail shopping or transportation, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and
(c) One representative from neighborhood associations or citizens at large who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and

(d) One member of the Board of County Commissioners.

(3) The Joint City/County Committee shall appoint one representative from local visitor destinations including but not limited to historic sites, visual and performing arts, sports and entertainment venues or universities, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment:

(4) Each member of the Board shall serve a three-year term, except that terms for representatives of the City Council and Board of County Commissioners shall be two years. In the event a member of City Council or the Board of County Commissioners, appointed pursuant to subsection (1)(d) or subsection (2)(d) of this section, ceases to be a member of the Council or Board during their appointed term, that individual’s membership on the Board of the Authority DCVB shall immediately terminate and their seat shall be filled in the manner set forth in this Agreement.

(5) Six members shall constitute a quorum for meetings of the Board. No action shall be taken by the Board unless a quorum is present. A quorum shall be determined at the time the meeting is called to order and any member who absents himself or herself after determination of a quorum without being excused by a vote of the Board shall be considered present until adjournment. The Board may adopt its own rules of procedure.

4. Paragraph 4, entitled Amendments and Termination, shall be amended as follows:

This Agreement may be amended or terminated at any time by the City and the County by execution of a written amendment. In the event this Agreement is terminated for any reason, the directors of the DCVB shall continue to serve until the appointment of their successors pursuant to further action by the City and the County or by the North Carolina General Assembly.

5. Except for the changes made by this First Amendment, the Agreement as it existed before this First Amendment was executed shall remain in full force and effect. In the event that there is a conflict between the Agreement as it existed before this First Amendment was executed and this First Amendment, this First Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Interlocal Cooperation Agreement to be signed as of the day and year first above written, in their respective names by their proper officials by authority of resolutions duly adopted by the respective governing bodies.
First Amendment to Interlocal Cooperation Agreement between the City of Durham and the County of Durham regarding Membership of the Durham Tourism Development Authority

ATTEST:

CITY OF DURHAM

CLERK

CITY MANAGER

COUNTY OF DURHAM

ATTEST:

CLERK TO THE BOARD

BY: MICHAEL M. RUFIN
COUNTY MANAGER

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

FINANCE OFFICER  10/19/09  DATE

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