

Staff Summary Report



Council Meeting Date: 02-07-08

Agenda Item Number: _____

SUBJECT: Approval of and authorization for the Mayor to execute the second amendment to an agreement dated December 4, 2003, between the Downtown Tempe Community and the City of Tempe, to add one additional event, the 2008 Spring Festival of the Arts.

DOCUMENT NAME: 20080207prtd03 **DOWNTOWN TEMPE COMMUNITY, INC. (0109-30)**

SUPPORTING DOCS: Yes

COMMENTS: There is no additional cost to The City of Tempe.

PREPARED BY: Travis Dray, Deputy Parks and Recreation Deputy Manager, 480/350-5182

REVIEWED BY: Mark Richwine, Parks and Recreation Manager, 480-350-5325
Jerry Hart, Financial Services Manger, 480-350-8505

LEGAL REVIEW BY: David Park , Assistant City Attorney, 480-350-8907

FISCAL NOTE: The DTC shall reimburse The City of Tempe for all City Service expenses and sales tax collected on behalf of the event in accordance with the terms and provisions of Agreement 2003-207.

RECOMMENDATION: Staff recommends approval of the amended agreement and the authorization for the Mayor to execute it.

ADDITIONAL INFO: This item is for the approval of the second amendment to Agreement 2003-207 to extend the original Agreement dated December 4, 2003 for one additional event, the 2008 Spring Festival of the Arts.

**SECOND AMENDMENT TO
AGREEMENT BETWEEN THE CITY OF TEMPE
AND
THE DOWNTOWN TEMPE COMMUNITY
REGARDING THE TEMPE FESTIVALS OF THE ARTS,
THE FANTASY OF LIGHTS
AND
THE FANTASY ON ICE**

C2003-207B

THIS SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF TEMPE AND THE DOWNTOWN TEMPE COMMUNITY REGARDING THE TEMPE FESTIVALS OF THE ARTS, THE FANTASY OF LIGHTS AND THE FANTASY ON ICE is entered into by and between the CITY OF TEMPE, a municipal corporation (hereinafter "City") and the DOWNTOWN TEMPE COMMUNITY, INC., an Arizona corporation (hereinafter "DTC") this _____ day of _____, 2008.

RECITALS

- A. WHEREAS, the City and the DTC are parties to that certain Agreement Between the City of Tempe and the Downtown Tempe Community Regarding the Tempe Festivals of the Arts, The Fantasy of Lights and The Fantasy on Ice dated December 4, 2003 (hereinafter "Festivals Agreement" or "this Agreement");
- B. WHEREAS, the City and the DTC entered into the First Amendment to the Agreement on or about March 24, 2005; and
- C. WHEREAS, the City and the DTC desire to set forth their mutual agreement as to certain matters relevant to the Festivals Agreement and the First Amendment, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties as are more particularly set forth in the Festivals Agreement and the First Amendment to the Agreement, that the same be and is hereby amended by this Second Amendment to read as follows:

1. Sections 10 K. of the Festivals Agreement are hereby amended and restated in their entirety to read as follows:

10. Other Terms and Conditions

K. Term. The term of this Agreement ("Term") for the purposes of the Festivals shall be extended from five (5) consecutive

years, as set forth in the original Agreement, to five and one half (5 1/2) consecutive years beginning with the Fall 2003 Festival of the Arts, unless sooner terminated by mutual agreement of the parties. The term of this Agreement for purposes of the FOI, and the FOI has expired and shall be subject to renewal only through a separate written agreement by the parties.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested to by the City Clerk, and the DTC has executed and sealed the same on or as of the day and year first above written.

ATTESTE:

"CITY"

CITY OF TEMPE, an Arizona municipal corporation

City Clerk

APPROVED AS TO FORM:

By: _____
Hugh Hallman, Mayor

City Attorney

"DTC"

Downtown Tempe Community Inc, an Arizona corporation

By: Christopher Wilson

Name Christopher Wilson

Title Senior V.P. Operations