

Staff Summary Report



Council Meeting Date: 02/19/09

Agenda Item Number: _____

SUBJECT: Request approval of and authorization for the Mayor to execute the fourth amendment to Agreement #2003-207 between the Downtown Tempe Community and the City of Tempe for the 2009 Spring Arts Festival.

DOCUMENT NAME: 20090219prtd01 **DOWNTOWN TEMPE COMMUNITY, INC. (0109-30)**

SUPPORTING DOCS: No

COMMENTS: N/A

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

REVIEWED BY: Mark Richwine, Parks and Recreation Manager, 480-350-5325
Jerry Hart, Financial Services Manager, 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: Fourth Amendment to Agreement between the Downtown Tempe Community and the City of Tempe to extend the original agreement dated December 4, 2003.

**FOURTH 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**

C2003-207D

THIS FOURTH 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 _____, 2009.

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, the Second Amendment to the Agreement on or about February 7, 2007, and the Third Amendment to the Agreement on or about November 20, 2008; and
- C. WHEREAS**, the City and the DTC desire to set forth their mutual agreement as to certain matters relevant to the Festivals Agreement, the First Amendment, the Second Amendment, and the Third 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, Second and Third Amendments to the Agreement, that the same be and is hereby amended by this Fourth Amendment to read as follows:

- 1. Section 10 K. of the Festivals Agreement is 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 six and one half (6 ½) 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 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.

ATTEST:

“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 _____

Name _____

Title _____