

Staff Summary Report

REVISED



Council Meeting Date: June 11, 2009

Agenda Item Number: _____

SUBJECT: Request authorization for the Mayor to execute a one-year renewal contract with the Tempe Convention and Visitors Bureau (TCVB) for the tourist and convention promotional program.

DOCUMENT NAME: 20090611cdcm03 **TEMPE CONVENTION AND VISITORS BUREAU (0109-26)**

COMMENTS: The estimated TCVB proceeds of the transient bed tax is approximately \$2 million

PREPARED BY: Chris Messer, Principal Planner (350-8562)

REVIEWED BY: Chris Salomone, Community Development Manager (350-8294)
Shelley Hearn, Community Relations Manager (350-9606)

LEGAL REVIEW BY: Dave Park, Assistant City Attorney (350-8907)

DEPARTMENT APPROVAL: Chris Salomone, Community Development Manager (350-8294)

FISCAL NOTE: N/A

RECOMMENDATION: Authorize the Mayor to execute the contract

ADDITIONAL INFO: The City originally adopted a 2% transient bed tax with portions of the proceeds used to develop a tourist and convention promotional program in Tempe. In September of 2002 the City adopted a 1% increase in the transient bed tax which became effective in January 2003. In December 2002, the City and the Tempe Convention and Visitors Bureau (TCVB) entered into an agreement that provided additional revenue payments to the TCVB. The City now desires to renew that agreement for an additional year.

RENEWAL OF THE TEMPE CONVENTION AND VISITORS
BUREAU, INC. AGREEMENT

C2002-193c

THIS RENEWAL OF THE TEMPE CONVENTION AND VISITORS BUREAU, INC. AGREEMENT (“**Renewal**”) is entered into by and between the Tempe Convention and Visitors Bureau, Inc. (the “**Bureau**”) and the City of Tempe, a municipal corporation (“**Tempe**”).

RECITALS

A. WHEREAS, the Bureau and Tempe are parties to that certain Tempe Convention and Visitors Bureau, Inc. Agreement (“**Agreement**”) made and entered into by and between the same parties on or about December 26, 2002, the First Amendment to that Agreement made on or about October 8, 2007, and the Renewal to that Agreement on or about January 6, 2009.

B. WHEREAS, the Renewal expires on June 30, 2009 and the parties desire to renew that Agreement for an additional period of time, subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual obligations of the parties as are more particularly set forth in the Agreement, that the same be and are hereby reaffirmed and amended by this Renewal as follows:

I. **TERMS:** Section 8 of the Agreement is hereby deleted and shall be replaced to read as follows:

8. TERMS

(a) The term of the Agreement is from July 1, 2009 to June 30, 2010 and shall be renewed only upon mutual written agreement of the parties.

(b) If a party defaults in the performance of any of the covenants, agreements, terms or conditions of this Agreement and such default is not cured within 30 days after notice of such default is given by the non-defaulting party, or such longer period as may be necessary provided the defaulting party has commenced curing within such 30 days and diligently pursues such curing to completion, the non-defaulting party shall have the right, at its option, to

immediately terminate this Agreement, whereupon it shall have no further obligation or liability under this Agreement, or to seek full and adequate relief by injunction or other legal and equitable remedies (or all of the above).

DATED this _____ day of _____, 2009.

CITY OF TEMPE

Hugh Hallman
Mayor

TEMPE CONVENTION AND VISITORS
BUREAU, INC.

Stephanie Nowack
President and CEO

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

TEMPE CONVENTION AND VISITORS BUREAU, INC. AGREEMENT

C2002-193

THIS AGREEMENT ("Agreement"), entered into by and between the Tempe Convention and Visitors Bureau, Inc., hereinafter referred to as "Bureau" and the City of Tempe, a municipal corporation, hereinafter referred to as "City", this 12th day of Dec., 2002.

WITNESSETH

WHEREAS, the Bureau will initiate, implement, and administer a comprehensive sales and marketing program designed to attract an increasing number of visitors and convention delegates to the City, thereby gaining revenues to the community and contributing to the overall economic growth of the Tempe business community and the City in general.

WHEREAS, the City originally adopted a 2% transient bed tax to be collected by motel and hotel operators, with the intention that portions of the proceeds therefrom be used to develop a tourist and convention promotional program in Tempe; and

WHEREAS, in September, 2002 the City adopted a 1% increase in the transient bed tax which will become effective January, 2003; and

WHEREAS, the City and Bureau desire to establish a general framework for future cooperative efforts, especially the general procedures by which the Bureau will prepare and carry out tourism and convention activities;

WHEREAS, the City and the Bureau desire to enter into a new agreement to replace any previous agreements and addenda relating to the transient bed tax, lighting improvements and tourist and convention promotion in Tempe;

NOW, THEREFORE, in consideration of the foregoing, the City and the Bureau do mutually agree as follows:

1. ADMINISTRATION

(a) The Bureau Bylaws are incorporated, by reference, into this agreement.

(b) The Bureau shall utilize an accounting system which will comply with generally accepted accounting principles and with the provisions of AICPA audit guide for nonprofit corporations. The Bureau shall establish and maintain a line item budget that identifies expenditures from all funding sources.

(c) The City's designated contact with the Bureau shall be the Community Relations Manager or his/her designee. The Community Relations Manager shall coordinate the execution of this Agreement and any reports and correspondence from the Bureau shall be channeled through this individual.

2. SCOPE OF ACTIVITIES

(a) Promote tourist travel and Tempe in general and distribute material related thereto to ensure their most useful circulation.

(b) Designate, establish and operate visitor or tourist information centers in the City and elsewhere which furnish tourist information and literature about the City.

(c) Encourage tourist travel by giving publicity to points and places of City-wide interest, climatic and recreational advantages, the possibilities of successful pursuits and such other information as in the opinion of the Bureau tends to attract visitors to the City.

(d) Promote and develop the tourism business and develop a campaign of information, advertising, promotion, exhibition and publicity relating to tourism business, including the recreational, scenic and historical attractions of the City and disseminating such information to the public through various state, national and international media.

(e) Such other publicity contemplated shall be given through, but not limited to, the publication of maps, pamphlets and other descriptive material designed to carry out the purposes of this Agreement.

(f) Stimulate and encourage all local and state governmental agencies and all private persons and enterprises to participate and cooperate in the promotion of tourism and tourism development in the City.

(g) Perform research necessary to determine a long-range tourism development plan for the City.

(h) Advise with and make recommendations to the City Council on all matters concerning tourism.

(i) Maintain contact with tour operators serving the southwest to sell them on touring their tours through Tempe.

(j) Work with the state Office of Tourism to pinpoint advertising on a cooperative basis to "expose" Tempe, Arizona, as a visitor's destination.

(k) Plan and promote select special events designed to attract attention to Tempe.

3. ANNUAL BUDGET

The Bureau shall submit to the City Council an annual operating budget by April 1 of each year. Said budget will include a description of proposed programs and staffing requirements along with their respective budgeted amounts.

4. ANNUAL AUDIT

The Bureau shall provide the City an annual financial statement as compiled and reviewed by an independent CPA. The Bureau shall pay for all services rendered by the CPA. All reports (financial statements, audit reports, compliance and management letters, letters of internal control) from the CPA shall be submitted to the City's Financial Services Director and Community Relations Manager ninety (90) days after the end of the fiscal year (by 9/30) of each year.

5. REPORTS TO COUNCIL

The Bureau agrees to report on the performance of its programs by submitting a report to the City at the end of the fiscal year. Said report shall be due 30 days after the close of the fiscal year and shall include an analysis of the effectiveness of the program, including a reasonable estimate of the financial impact of the program on the local economy. Copies of advertisements and literature prepared with contract funds shall also be provided to the City.

6. FUNDING

(a) Subject to the deductions as set forth in this Agreement, the City shall provide the following payments to the Bureau unless altered as set forth in subsection C:

1. In January 2003: the greater of \$65,907 or one percent of the actual bed tax collections for November 2002 less the collections from the Rio Salado Community Facilities District.
2. In February 2003: the greater of \$65,907 or one percent of the actual bed tax collections for December 2002 less the collections from the Rio Salado Community Facilities District.
3. Beginning March 2003: two-thirds of the monthly actual bed tax collections less the collections from the Rio Salado Community Facilities District, starting with January 2003, and continuing monthly thereafter.

(b) The aforementioned payments from the City to the Bureau shall be subject to the following deductions:

1. \$21,915.65 for election costs to be paid in four (4) equal monthly installments during the months of March, April, May and June of 2003.
2. \$30,000 for Fantasy of Lights lighting improvements to be paid in four (4) equal monthly installments during the months of March, April, May and June of 2003.
3. \$57,580 for fall/winter 2002 promotional activities to be paid in four (4) equal monthly installments during the months of March, April, May and June of 2003.

(c) Notwithstanding any other provision of this Agreement, the City may alter the payment schedule set forth in this Agreement upon thirty (30) days written notice to the Bureau.

7. HOLD HARMLESS AND INSURANCE PROVISIONS

The Bureau agrees to defend, indemnify and save harmless the City, its Mayor and Council, appointed boards and commissions, officials, officers, employees and insurance carriers, individually and collectively from all losses, claims, suits, demands, expenses, subrogation's, attorney's fees or actions of any kind and nature resulting from personal injury to any person (including bodily injury and death) or damages to any property, arising or alleged to have arisen out of either (1) the Bureau's negligent performance of the terms of this contract, or (2) any of the Bureau's acts or omissions.

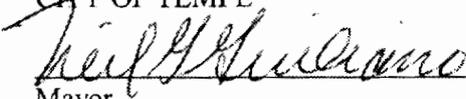
8. TERMS

(a) The term of this Agreement is from January 1, 2003 to January 1, 2005. This Agreement shall be automatically extended for two (2) additional two (2) year periods unless on or before the 1st day of October of any year either the City or the Bureau gives notice to the other of intent to terminate same at the end of that calendar year.

(b) If a party defaults in the performance of any of the covenants, agreements, terms or conditions of this Agreement and such default is not cured within 30 days after notice of such default is given by the non-defaulting party, or such longer period as may be necessary provided the defaulting party has commenced curing within such 30 days and diligently pursues such curing to completion, the non-defaulting party shall have the right, at its option, to immediately terminate this Agreement, whereupon it shall have no further obligation or liability under this Agreement, or to seek full and adequate relief by injunction or other legal and equitable remedies (or all of the above).

IN WITNESS WHEREOF, the City of Tempe by its Mayor and City Clerk have hereunto subscribed their names this 26th day of December, 2002.

CITY OF TEMPE



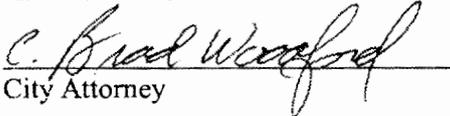
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

TEMPE CONVENTION AND VISITORS
BUREAU, INC.

By Stephanie Nowack

RENEWAL OF THE TEMPE CONVENTION AND VISITORS
BUREAU, INC. AGREEMENT

C2002-193b

THIS RENEWAL OF THE TEMPE CONVENTION AND VISITORS BUREAU, INC. AGREEMENT ("**Renewal**") is entered into by and between the Tempe Convention and Visitors Bureau, Inc. (the "**Bureau**") and the City of Tempe, a municipal corporation ("**Tempe**").

RECITALS

A. WHEREAS, the Bureau and Tempe are parties to that certain Tempe Convention and Visitors Bureau, Inc. Agreement ("**Agreement**") made and entered into by and between the same parties on or about December 26, 2002 and the First Amendment to that Agreement made on or about October 8, 2007; and

B. WHEREAS, the original Agreement expired on January 1, 2009 and the parties desire to renew that Agreement for an additional period of time, subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual obligations of the parties as are more particularly set forth in the Agreement, that the same be and are hereby reaffirmed and amended by this Renewal as follows:

I. **FUNDING**: Section 6 of the Agreement is hereby deleted and shall be replaced to read as follows:

6. FUNDING

(a) Subject to the deductions as set forth in this Agreement, the City shall provide the following payments to the Bureau unless altered as set forth in subsection B:

By the second Friday of each month, the City will pay to the Bureau two thirds of the monthly actual bed tax collections, less the collections from the Rio Salado Community Facilities District

(b) Notwithstanding any other provision of this Agreement, the City may alter the payment schedule set forth in this Agreement upon thirty (30) days written notice to the Bureau.

II. **TERMS**: Section 8 of the Agreement is hereby deleted and shall be replaced to read as follows:

8. TERMS

(a) The term of the Agreement is from January 1, 2009 to June 30, 2009 and shall be renewed only upon mutual written agreement of the parties.

(b) If a party defaults in the performance of any of the covenants, agreements, terms or conditions of this Agreement and such default is not cured within 30 days after notice of such default is given by the non-defaulting party, or such longer period as may be necessary provided the defaulting party has commenced curing within such 30 days and diligently pursues such curing to completion, the non-defaulting party shall have the right, at its option, to immediately terminate this Agreement, whereupon it shall have no further obligation or liability under this Agreement, or to seek full and adequate relief by injunction or other legal and equitable remedies (or all of the above).

DATED this 6th day of January, 2009.

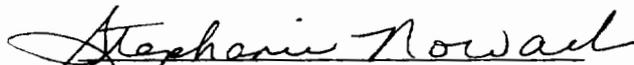
CITY OF TEMPE



Hugh Hallman

Mayor

TEMPE CONVENTION AND VISITORS
BUREAU, INC.



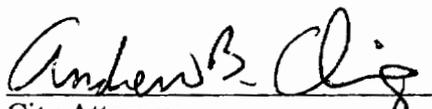
Stephanie Nowack

President and CEO

ATTEST:


Jan Hart
City Clerk

APPROVED AS TO FORM:


Andrew B. Clig
City Attorney