



Agenda Report

18-868

Agenda Date: 6/26/2018

REPORT TO COUNCIL

SUBJECT

Discussion and Direction to the City Manager on an Agreement for Convention and Visitor Services with Santa Clara Chamber of Commerce for Convention-Visitors Bureau (CVB) or Other Provider

BACKGROUND

At the May 22, 2018, staff requested direction from Council on the management fee to the Santa Clara Chamber of Commerce & Convention-Visitors Bureau for the management of the Santa Clara Convention Center. After a detailed staff presentation and Council discussion, Council approved a motion to:

Direct the City Manager and City Attorney to begin a process of exploring a term sheet for a new agreement with the Chamber of Commerce for their management of the Convention Center; begin the process to execute a financial and performance audit of the Chamber; and that the management fee be suspended until such time that we can enter into a new agreement.

There are two agreements with the Santa Clara Chamber of Commerce: 1) a management agreement for the operation of the Santa Clara Convention Center and 2) an agreement to provide convention and visitor services promoting tourism in the City of Santa Clara and to market the Santa Clara Convention Center (CVB Agreement).

For FY17/18, a total not to exceed amount of \$1,461,601 for a convention and visitor services agreement with the Chamber (CVB Agreement) expires on June 30, 2018. Staff is seeking Council direction on the convention and visitor services commencing July 1, 2018.

It should be noted early in this report, that given the referenced delays, there is no way to administratively process a new one-year agreement between June 26 and June 30, for a successful contract start date on July 1, 2018. As such, there will be a lapse of service regardless of what Council action is taken on this matter, and I do not recommend that the City Council authorize continuation of services absent a contract agreement. Further, delays have impacted the City's ability to assess the status of the Agreement with Santa Clara Chamber of Commerce for Convention-Visitors Bureau (CVB) and related services (Agreement) and whether to recommend or amend the Agreement.

DISCUSSION

As reported at the June 12 Council meeting, the City Manager's office has proactively taken several steps to expeditiously implement the Council direction given on May 22, including:

- Contracting TAP International: The services of a highly qualified performance auditing firm whose principal has expertise in convention center performance audits has been retained.

- Updated the Audit Scope: In preparing the scope for the audit, it became clear that the marketing operation of the Convention-Visitor's Bureau is vital to Convention Center operations. Since an audit of convention center operations would be incomplete without a review of the \$1.5 million in public funds used by the CVB to support convention and tourism activity, the audit objectives now include a review of the CVB activity.
- Information Requests: In order for the audit to be meaningful, full access to information regarding the Convention Center and CVB operations is required. While the City has made a series of requests for information from the Chamber since April 19, additional requests have been made for the audit. The Chamber's timely documentation production is essential to audit activities, early delay of responding to request for information or rejecting the City's request have already impacted the schedule. It is important to note that only recently, the City achieved compliance from the Chamber, in accordance with existing Agreement provisions, with production of documents for the purpose of inspection of operations and the Council directed audit.
- Conducting an Audit Entrance Conference: An audit entrance conference, meant to clearly communicate the objectives, timelines and the urgency of data requests to all parties, occurred on June 7 with Convention Center staff, representatives of the CVB and Chamber, as well as City staff. The auditor made very clear data and documentation requests of the City and Chamber for Convention Center- and CVB-related activity.

While staff has made significant progress in a short time frame as noted above, the fact that data requests and document production are still a work in progress for the City, and will likely continue throughout the performance and financial audits, and in the absence of completed audit findings, there is not enough information for staff to make a professional recommendation with specificity on a CVB contract for FY18/19. As the audit progresses with preliminary observations and findings, these matters provide clarity to staff on what agreement terms to pursue, by direction of the City Council, as part of the negotiations. However, outside of the formal audit work, preliminary discussions on how the Chamber manages conflicts of interests; absence of Board training for management of public funds and governance oversight of a public facility; absence of policies regarding self-dealing (e.g., use of the Convention Center relative to fee reductions/waivers) along with already surfaced concerns regarding financial protocols and procedures, suggest deficiencies or loose management controls in protecting the use of a public facility and funds that must appear in any legal service agreement that is recommended to the City Council. These matters are incomplete and of concern to City staff regarding the appropriate use of public funds and facilities.

Recognizing the importance of maintaining convention and visitor services, which support convention center operations, there are several alternatives available for Council consideration, which are:

- 1) Maintain the Status Quo: Execute a One-Year Agreement
- 2) Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts
- 3) Direct City Manager to Negotiate and Execute a Bridge Agreement to:
 - (a) Transition to another provider or
 - (b) Determine Long Term Agreement Terms with the Chamber

4) Any Other Action Determined by the City Council

Below is an explanation of each of the above policy options for the Council to consider:

1) Maintain Status Quo: Execute a One-Year Agreement -- The Council could authorize and direct the City Manager to execute a one-year extension with the Chamber to fund CVB operations under the same terms and conditions. Recognizing that it is too late to expect services to continue on July 1, 2018, staff would expeditiously work to issue a contract and restore the same contractual terms as soon as possible to minimize a disruption in services. As funds for the FY17/18 agreement would be exhausted as of June 30, 2018, additional funds would be required. The FY18/19 budget carries \$1,461,601 for CVB-related services.

Comment: This alternative would preserve the status quo of the existing service agreement without the benefit of any further due diligence, pending the completion of the performance and financial audits. Under this option, the Chamber would continue to oversee CVB operations at an annual expense to the City of \$1,461,601. A renewed, status-quo agreement would maintain the option to terminate the contract, which is a ninety-day noticing provision and at an estimated cost of \$365,000 for the noticing term. A one-year extension to the contract allows for continuation of service, but without the benefit of analysis of the operational effectiveness and suitability of current practices and procedures as well as the value of the return on investment received by the City for the expenditure. Staff believes that it would be premature to pursue this policy option since the audit findings could be key to developing new agreement terms and the 90-day noticing term is too costly.

2) Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts -- The City Council could direct the City Manager to allow the contract to expire at the end of its current term of June 30, 2018. Under this scenario, the existing contractual relationship with the Chamber for managing CVB operations would end and there would be no contractual services provided as of July 1, 2018, until the City approved a contract for these services with a new service provider. This alternative affords the City maximum flexibility to implement new practices and governance, but at the same time, the transitional support required would need to be reprioritized against other workload.

Comment: This option would close out the current service provider and require staff to conduct a process to secure another provider for these services. Staff does not have an asset inventory in its possession to determine what transfer arrangements would need to be established should this option be directed, although this information was requested of the Chamber but not provided. Approval of this policy option eliminates the 90-day noticing requirement, at a savings of approximately \$365,000, if the Council desires to allow this contract to expire. The total fiscal impact of the value by allowing this contract to expire is unknown and staff would not have time to analyze the pros and cons of this policy action before June 30, 2018 for a more informed City Council policy decision. This approach would have service delays, result in some disruption, and/or potential loss of business for the Convention Center; however, it allows for the City to test the market for other providers and the estimated cost for services.

3) Direct City Manager to Negotiate and Execute a Bridge Agreement to: (a) Transition to Another Provider or (b) Negotiate a Long Term Agreement Terms with the Chamber -- The Council could authorize and direct the City Manager to execute an up to four-month contract under the existing terms, in an amount not to exceed \$487,200, while exploring and negotiating new terms

and conditions for (1) a new CVB Agreement with the Chambers or (2) a new service provider. This would allow the existing service structure to continue while new terms are identified and determined with either the current or a new provider. This option allows all parties to benefit from the completion of data and document requests and perhaps early findings in the performance and financial audits which could inform the best course forward for the City. As part of approving this option, Council could also provide direction on the commencement of negotiations with the Chamber for continued services; provide direction on a new contract with an alternate service provider; or, provide direction on an alternate course of action.

Comment: This option provides flexibility to the City while determining the future of these services and service provider. There is much to learn from the audit that is underway. It is already very clear that the two agreements with the Chamber do not provide enough assurances for the City to manage public funds and track performance outcomes. This approach preserves the service in its current form for an interim term, while creating an environment where improvements could be achieved, data and information validated, and improved performance outlined with either the current provider or a new provider.

4) Any Other Action Determined by the City Council --

- (a) The City Council may take any other action than the above policy options, including a change of term for Policy Option #3 above.
- (b) The City Council could also authorize and direct the City Manager to execute an agreement with the Chamber to continue to oversee CVB operations, with new terms and conditions, either as a short-term bridge contract or a full-year contract. The option is essentially a hybrid of options one and three above.
- (c) Any other policy option determined by the Council.

ENVIRONMENTAL REVIEW

This is an information report only and no action is being taken by the City Council and no environmental review under the California Environmental Quality Act ("CEQA") is required.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

See Discussion section for a complete narrative on policy options available to the City Council to determine:

- 1) Maintain the Status Quo: Execute a One-Year Agreement
- 2) Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts
- 3) Direct City Manager to Negotiate and Execute a Bridge Agreement to:

- (a) Transition to another provider or
 - (b) Determine Long Term Agreement Terms with the Chamber
- 4) Any Other Action Determined by the City Council

As stated on June 12, there is not enough information to determine that award of another one-year agreement is the best option for the City. Additionally, there is not enough time to execute an agreement before July 1, 2018 to continue services, and the City Manager can't recommend allowing services to continue without a contract.

As stated earlier in this report, there are significant concerns that have surfaced with the maintenance of this contract and indicate that a changed approach is required to manage risk and protect public funds and facilities. As stated earlier, outside of the formal audit work, preliminary discussions on how the Chamber manages conflicts of interests; absence of Board training for management of public funds and governance oversight of a public facility; absence of policies regarding self-dealing (e.g., use of the Convention Center relative to fee reductions/waivers) along with already surfaced concerns regarding financial protocols and procedures, suggest deficiencies or lose management controls in protecting the use of a public facility and funds that must appear in any legal service agreement that is recommended to the City Council. These matters are serious in nature and the City's review of them, along with the open audit, does not allow for the City Manager to make a professional recommendation other than any continuation of service requires remedy to existing management, if continued.

RECOMMENDATION

Recommend approval of either:

1. Alternative #2: Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts; OR
2. Alternative #3: Direct City Manager to Negotiate and Execute a Bridge Agreement to:
 - (a) Transition to another provider; or
 - (b) Determine Long Term Agreement Terms with the Chamber

There is very little information for the City Manager to make an informed decision for renewing the contract for another year. Preliminary observations, as mentioned in this report, illustrate that major improvement relative to oversight and management of these services is required. Additionally, delays have already adversely impacted the continuation of these services and there will be disruption in services, as detailed above.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. FY 2017/18 Agreement with Chamber of Commerce for CVB

**AGREEMENT
FOR THE OPERATION OF A
CONVENTION AND VISITORS BUREAU**

THIS AGREEMENT ("Agreement") is made and entered into this 3 day of July, 2017 (the "Effective Date") by and between the CITY OF SANTA CLARA, CALIFORNIA, a chartered California municipal corporation (herein "City") and the SANTA CLARA CHAMBER OF COMMERCE, a California non-profit corporation, [d.b.a. SANTA CLARA CHAMBER OF COMMERCE AND CONVENTION-VISITORS BUREAU, ("Chamber"). City and Chamber may be referred to herein individually as a "Party" or collectively as the "Parties to this Agreement".

IT IS HEREBY AGREED BY AND BETWEEN CITY AND CHAMBER, as follows:

1. Overview of the Santa Clara Chamber of Commerce and Convention-Visitors Bureau's Operations.

The Santa Clara Chamber of Commerce and Convention-Visitors Bureau currently provides three distinct services to the community as set forth in Exhibit "A" attached and incorporated by this reference. The City funds Chamber for two of these services: i.e., the operation of (1) the Convention and Visitors Bureau (herein "CVB"); and (2) the Convention Center. The third service, the Chamber of Commerce's operations, is to be financed by its members. This Agreement addresses the relationship of the City with the Chamber's Convention and Visitors Bureaus operations only.

2. Purpose of this Agreement.

Tourism is presently an important industry to the inhabitants of City. In the future, it is anticipated that tourism will become an increasingly important industry to the residents of City, as cultural and recreational facilities are developed which will attract visitors. Tourism provides jobs and income not only to those who are directly involved in providing cultural and recreational facilities, but also to those who provide the goods and services to visitors. For these reasons, the promotion of tourism is in the interest of the people in City.

This Agreement provides for the continuation of Chamber's Convention and Visitors Bureau services. These services by Chamber were originated in an Agreement for Tourist and Convention Bureau dated March 4, 1975. The Convention and Visitors Bureau is presently engaged in diverse activities to promote tourism and commerce within City. The operations of a Convention and Visitors Bureau presently conducted by Chamber have shown success. Additionally, this Agreement provides for Chamber's marketing services for City's Convention Center.

It is also the purpose of this Agreement to provide for such reporting and accounting by Chamber to City that will enable City to determine and verify that the money paid by City to Chamber is usefully and properly expended by Chamber in accordance with the stated purposes

of this Agreement for Convention and Visitors Bureau activities. Chamber is to maintain separate accounting for its Convention and Visitors Bureau activities.

3. Information Services.

Chamber shall continue the operations of the CVB and carry out the purposes of this Agreement. In operating such Bureau, Chamber will at all times during the term of this Agreement provide visitor information services at a location (or locations) convenient and accessible to visitors.

4. Preparation and Dissemination of Pamphlets.

Chamber will prepare suitable pamphlets and brochures to inform visitors (and potential visitors) to City of the convention facilities and tourist attractions, which are available. Chamber will distribute the pamphlets and brochures to the public and provide City with copies of the pamphlets.

5. Convention and Visitor Bureau Activities.

Chamber, through its CVB activities, shall provide at least the services and activities summarized in Exhibit "A," attached hereto and incorporated herein by this reference, throughout fiscal year 2017-2018. Chamber shall conduct sufficient meetings throughout the fiscal year with hotel and motel marketing, sales and management personnel to coordinate activities with CVB.

The Santa Clara Chamber of Commerce will continue to operate a "Store of City Imprinted Items" (hereafter "City Store") at its 1850 Warburton Avenue address. Items will be sold to the public and the price of each item will include supplier's costs, set-up and shipping charges, handling/overhead costs, plus sales tax. The scope of performance is summarized in Exhibit "A." The Chamber agrees to allow the City to audit activity on the City Store at any time.

6. Activity Reports to City.

Chamber will provide to City (Attn: Director of Finance) a quarterly activity report of the activities of CVB, which will include:

- A. Numbers of convention leads mailed to hotels;
- B. Site inspections conducted;
- C. Conventions and trade shows booked, along with estimated delegates and attendees and estimated room nights blocked;
- D. Information on numbers of convention groups to which CVB provided convention services; and,

- E. Information on trade shows attended, sales missions conducted and other related activities of the CVB.

At the end of the fiscal year, a yearly summary report will be submitted by Chamber to City, which will include all activities of the CVB. The report should be received by the City (Attn: Director of Finance) no later than July 31, 2018.

7. **Membership in Associations.**

Chamber may become a member of convention and tourist associations, which in the reasonable opinion of Chamber are useful in promoting the development of tourism and conventions in City.

8. **Payments by CITY.**

City will pay Chamber, for its CVB activities, a sum not-to-exceed one million four hundred sixty one thousand six hundred one dollars (\$1,461,601). The Chamber's 2017-2018 Proposed Budget item identified as rent \$91,232 is interpreted to include the expense attributed to the occupancy of space by the CVB for its operations in a building owned by the Santa Clara Chamber of Commerce, Inc. This rental amount is being paid by City as part of its appropriation to Chamber discussed herein. In no event shall City's payment as provided herein exceed the sum of one million four hundred sixty one thousand six hundred one dollars (\$1,461,601) or the sum of the invoiced payments paid up to the time of termination.

In consideration for Chamber's complete performance of Services, City shall pay Chamber for all materials provided and actual services rendered by Chamber. Chamber will bill City on a monthly basis for Services provided by Chamber during the preceding month, subject to verification by City. City will pay Chamber within thirty (30) days of City's receipt of invoice.

The obligation of City to make monthly payments is expressly subject to the condition that Chamber is not in default under the terms of this agreement at the time of payment, the agreement has not been previously terminated, and subject to budget appropriations.

9. **Termination of Agreement.**

The term of this Agreement shall begin on July 1, 2017, and end on June 30, 2018, unless sooner terminated. Either Party may terminate this Agreement by giving at least ninety (90) calendar days' written notice (prior to the effective date of termination) to the other. This Agreement shall terminate forthwith ninety (90) calendar days following the date said written notice is given by personal delivery or deposit in the mail by certified or registered mail, with the exception of paragraph 5, 12, 13 and 15, which shall survive the termination of this Agreement.

Notwithstanding the foregoing, if during the term of this Agreement the Chamber ceases to operate the Convention Center, the City may terminate this Agreement by giving at least thirty (30) calendar days' notice to the Chamber. Said written notice shall be given by personal

delivery or deposit in the mail by certified or registered mail. Paragraphs 12 and 15 shall survive the termination of this Agreement. Following the effective date of the termination based upon timely notice, the City shall no longer be required to make any payments to Chamber under this Agreement.

10. No Pledging of City's Credit.

In no event shall Chamber have the right or power to pledge the credit of City or incur any obligation in the name of City. Chamber will save and hold harmless City, its Council, officers, and employees from any and all claims arising out of Chamber's performance of this Agreement. Chamber agrees to pay to City any costs incurred by City, including reasonable attorney's fees and court costs, in defending against a claim based on any written or oral agreement which is in violation of the provisions of this paragraph.

11. No Third Party Beneficiary.

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

12. Accounting.

On a quarterly basis, Chamber shall provide to the City (Attn: Director of Finance) a detailed statement showing the performance of this Agreement by Chamber, an itemized statement of each expenditure made by Chamber in performance of this Agreement, and any other documentation which City may request to enable City to determine whether any expenditure made in performing this Agreement is necessary, reasonable, and/or not funded in whole or in part under any other agreement or from any other source of income. Should City make such determination in its sole discretion, the Chamber shall pay any amounts the City deems owing to the City within thirty (30) days following presentation of an invoice from the City. Chamber shall maintain books and records adequate to disclose receipts and payments of the contribution by City and such books and records shall be available for inspection at reasonable times for the term of this Agreement and for three years following by authorized City employees or an auditor designated by City. Any travel or entertainment expense incurred in performing this Agreement shall be verified by a statement and invoice.

13. Amendments to Agreement.

This Agreement may be changed by written agreement between the Parties. Any amendments shall be approved by the City Council of City.

Except as provided above, no term, condition, or provisions in this Agreement may be changed by an official, employee or any other person acting, or purporting to act, on behalf of City. Any oral or written agreement which purports to change or modify any term, condition, or provision of this Agreement which is not in writing and is not signed and approved as required hereinabove shall be void and of no force and effect.

Chamber agrees to pay to City any costs incurred by City, including reasonable attorney's fees and court costs, in defending against a claim based on any written or oral agreement which is in violation of the provisions of this paragraph.

14. Hold Harmless/Indemnification.

To the extent permitted by law, Chamber agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, agents, and employees from and against any claim, injury, liability, loss, cost, and/or expense or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising from Chamber's acts, errors, or omissions with respect to or in any way connected with the work performed by Chamber pursuant to this Agreement.

15. Insurance.

Chamber shall provide and maintain, as well as furnish City with proof of insurance policies with coverage(s), amounts and in a form acceptable to City Attorney's Office as set forth in Exhibit "C" attached hereto and incorporated herein by this reference.

16. Nonassignment.

Except as expressly agreed, in writing, by City, all services required to be rendered hereunder shall be performed by Chamber. Chamber shall not otherwise subcontract or delegate to others the work and promotional activities to be performed under this Agreement.

17. Chamber is an Independent Contractor.

Chamber agrees that in performing the work required under this Agreement, it is not an agent or employee of City but an independent contractor for professional services with full rights to manage its employees subject to the requirements of the law. All persons employed by or contracted with Chamber to furnish labor and/or materials in connection with the work under this Agreement are not employees of City in any respect.

18. Fair Employment.

Chamber shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

19. **Notices.**

All notices to the parties hereto shall, unless otherwise requested in writing, be sent to City addressed as follows and are effective upon delivery:

To City at:

CITY MANAGER'S OFFICE
Attention: City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
or by facsimile at (408) 241-6771

To Chamber at:

SANTA CLARA CHAMBER OF COMMERCE, INC.
Attention: President/CEO
1850 Warburton Avenue
Santa Clara, CA 95050
or by facsimile at (408) 244-7830

SANTA CLARA CHAMBER OF COMMERCE, INC.
Attention: Chair, Board of Trustees
1850 Warburton Avenue
Santa Clara, CA 95050
or by facsimile at (408) 244-7830

20. **Captions.**

The captions of the various sections, paragraphs and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

21. **Governing Law Venue:**

This Agreement shall be governed and construed in accordance with the law of the State of California. Any action regarding this Agreement or the performance thereof shall be brought in the Santa Clara County Superior Court, San Jose, or the Northern District of California, San Jose Branch.

22. **Compliance with Ethical Standards.**

Contractor shall:

- a. read Exhibit C, entitled, "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA," attached and incorporated by this reference; and,
- b. execute Exhibit E, entitled, "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS" attached and incorporated by this reference.

The Parties acknowledge and accept the terms, conditions and obligations of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

CITY OF SANTA CLARA

A chartered California municipal corporation

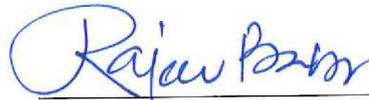


BRIAN DOYLE
Interim City Attorney

ATTEST:

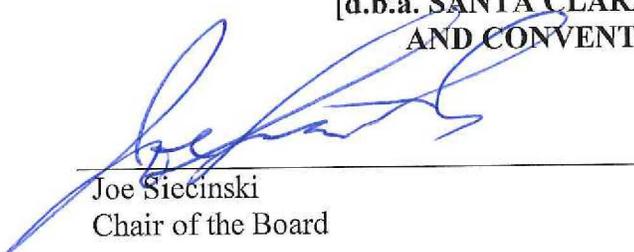


ROD DIRIDON, JR.
City Clerk

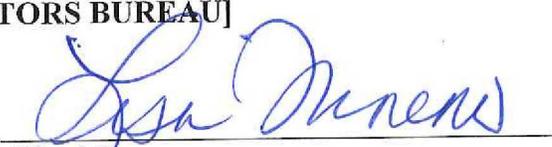


RAJEEV BATRA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

SANTA CLARA CHAMBER OF COMMERCE, INC.
[d.b.a. SANTA CLARA CHAMBER OF COMMERCE
AND CONVENTION-VISITORS BUREAU]



Joe Siecinski
Chair of the Board



Lisa Moreno
General Manager and CEO
5001 Great America Parkway
Santa Clara, CA 95054
Telephone: (408) 748-7015
Fax: (408) 748-7038

**AGREEMENT
FOR THE OPERATION OF A
CONVENTION AND VISITORS BUREAU**

EXHIBIT "A"

**Santa Clara Convention-Visitors Bureau
2017-18 Program Summary**

"City Store" Scope of Performance

The Santa Clara Chamber of Commerce/Convention & Visitors Bureau will continue operation of a City Store at its 1850 Warburton Avenue address. Items will be sold at net cost to the public. However, the price of each item will include supplier's costs, set-up and shipping charges, handling/overhead costs, plus sales tax. The overhead costs are included in the price of each item by rounding the price of that item up to the next whole dollar. Items in the store will be sold during the normal business hours of the Chamber.

The City of Santa Clara will fund the upfront costs of items that have been approved by the City Manager, Deputy City Manager and City Clerk. The Chamber may wish to sell other items, which will not need Council approval, as they will not be paid for by the City.

The Chamber will order the items, keep an inventory of items on hand, and keep an accurate accounting of items sold. Funds received for items sold will be held in a checking account specifically earmarked City Store Fund. The total dollar value of goods in inventory plus the revolving fund will be maintained at approximately \$28,500 unless adjusted by the Santa Clara City Council or reduced by items paid in advance. As needed, items will be reordered when inventories are reduced and the revenues received for sales will be used to pay for the re-ordered items.

The Chamber is responsible for tracking all the proceeds from the merchandise. The Chamber is responsible for reporting and paying all the taxes on the City Store. The Chamber agrees to an annual auditing and reporting of activity on the City Store. The report shall be prepared and forwarded to the City no later than thirty (30) days after the end of the Chamber's fiscal year.

At such time as the City may desire, the Chamber will order additional items per a request of the City Manager's Office, and arrangements for payment will be provided by the City. The City may wish to obtain items from the Store. The Chamber will invoice the items to the City Manager's Office, including sales tax.

If the City Store closes, the City will receive the upfront costs authorized by Council and approved by the City Manager or the remainder of the merchandise in the City Store, or a combination of the funds and merchandise.

**SANTA CLARA CONVENTION-VISITORS BUREAU
CONVENTION SALES, MARKETING AND SERVICES
2017-2018 Program Summary**

The Santa Clara Convention and Visitors Bureau's (CVB) mission is to market and sell the city of Santa Clara as an overnight destination for the economic benefit of the community and to service incoming visitors and delegates.

The vision of the CVB is to position Santa Clara as the premier Silicon Valley experience and destination for entertainment, sports, leisure, and business events.

The goal of the CVB is to increase City revenues by increasing visitor and convention spending in hotels, the Convention Center, visitor attractions, restaurants, and other businesses in the city as measured by hotel occupancy tax, tourism improvement assessment and retail tax revenues.

Group and Convention Center Sales & Marketing Targeted Areas:

- Local, state, regional, national & international corporate, association and SMERF (social, military, educational, religious, fraternal) and sports groups with emphasis on state and regional
- Convention center and hotel in-house corporate mid-week business that will pay the mid-week hotel room rates
- City-wide groups
- Short term hotel in-house and convention center groups
- Groups that meet over "need periods" (holidays and weekends in June, July, August, November & December)

Group and Convention Center Sales & Marketing Programs:

- Researching and prospecting new client opportunities
- Performing sales calls and city bid presentations to prospective businesses & organizations
Conducting city site inspections showcasing the City of Santa Clara, hotels, convention center, stadium, entertainment & attraction venues, and local businesses
- Exhibiting in key tradeshows, attending industry related meetings and sponsoring special industry related events
- Implementing direct mail, e-marketing/social media and e-blasts
- Advertising in key trade publications, newsletters, directories and social media platforms

Convention Sales & Marketing Materials:

- Sales Kits and Promotional Materials
- Special Events / Promo's / E-marketing/Newsletters
- Exhibit Booths & Quick Screens, Sales Videos
- Internet: SantaClara.org & SiliconValleymeetings.com & SantaClaraConventionCenter.com
- Print & Online Advertising Placements

Memberships:

- ASAE- American Society of Association Executives
- CalSAE - California Society of Association Executives
- MPI - Meeting Professionals International
- NCCMPI - Northern California Chapter of Meeting Professionals International
- MPISSN - Sacramento -Nevada Chapter of Meeting Professionals International
- IAEE - International Association of Expositions & Events
- HSMIAI - Hospitality Sales & Marketing Association International
- SVBTA – Silicon Valley Business Travel Association – Association & Corporate
- RCMA – Religious Conference Management Association
- SFTravel –Association
- DMAI – Destination Marketing Association International

Involvement in industry chapter meetings, trade shows, luncheons and sponsorships:

(All markets)

- ASAE – American Society of Association Executives Tradeshow
- CalSAE- California Society of Association Executives Seasonal Spectacular Tradeshow

- Elevate Tradeshow – Spring Show (SMERF & Association Markets)
- Smart Meetings - Reverse trade show- (All markets)
- MPI - Meeting Professionals International
 - MPI – World Educational Conference International
 - MPI Northern California Chapter
 - MPI Sacramento-Nevada Chapter
- RCMA – Religious trade show/conference
- NASC – National Association of Sport Commissions – Sports trade show
- Connect Marketplace
 - Association Market trade show
 - Connect Sports – Sport trade show
 - Connect Corporate Tradeshow
- Connect CA – Corporate Market
- CEESE – Council of Engineering and Scientific Society Executives Tradeshow
- Destination California Tradeshow
- HSMIAI National - Association Market trade show
- IMEX – International Meeting Exchange
- Cvent Connect – (all markets)

Sales Trips and Special Events:

- Monthly local/Bay Area corporate, sports, association and SMERF(social, military, educational, religious, sports and fraternal) groups sales calls/client luncheons/breaks/breakfasts
- Monthly state association/SMERF sales trips (Sacramento/Bay Area)
- Southern CA Sales Calls (All markets)
- Phoenix, Las Vegas, Omaha, Indianapolis, Toronto and Minneapolis Sales Calls – (All markets)
- Client Event with Convention Center, Levi’s Stadium, and Great America

- Special Presentations/Luncheons to American Express, HPN, Intel, Helms Briscoe, Cappa & Graham and GP Johnson meeting planners
- Sales Mission with industry partners

E-blasts/Phone Blitz (all markets):

- Bi-annual phone blitz & e-blasts to entire data base
- Lost business (past 5 years) e-blast and phone blitz

Lead Generating Programs

- SantaClara.org
- SantaClaraConventionCenter.org
- SiliconValleyMeetings.com
- Summit RFP Campaign
- Digital Edge “Book a Meeting” Campaign
- Cvent

Group & Convention Center Advertising

We will continue to solicit business for Santa Clara and develop new ways of getting our message to meeting planners and their delegates by assessing all potential business, with special attention to the holidays, weekends, the months of June, July, August, November and December. Advertisements and trade shows in fiscal year 2017-2018 will be partially paid by the Tourism Improvement District.

**GROUP & CONVENTION SERVICES
2017-2018 Program Summary**

Acts as a Liaison between the client, city of Santa Clara and local businesses. Our Services division provides many excellent services to the meeting planner and delegate and connects them with our local industry partners whenever possible. Additionally, we support and assist the meeting planner and delegate with:

- Information & service material to groups with events taking place in Santa Clara
- Registration and Housing Services
- Visitor guides, literature on local attractions, outdoor fields in the area for sporting events, transportation options/rates, and service materials to convention definite groups
- Welcome letters from Mayor/City Official & assistance with obtaining a City Official/Mayor for opening/closing general sessions/other
- Pre-conference attendee promotions, site inspections, assistance with welcome signs sponsorship assistance, offsite event locations information and proposals, customized city maps, attendee websites & micro-sites, surveys, city permits road closures, props and decor assistance, photography and videotaping referrals, airport and local advertising assistance, community service events for attendees and keynote speaker referrals
- Meeting and crisis needs
- Local educational opportunities, volunteer recruitment opportunities & local vendor referrals
- Networking dine-around with Santa Clara restaurants

- Discount Coupon Program and upcoming Convention Poster Distribution to local shops and businesses
- List of medical services and hospitals in area for emergency
- Assists with prior/post conference delegate excursion packages
- Establish partnerships, maintain relationships and introduce client to local venues/establishments and services to create revenue for the city of Santa Clara from a client booking with respective venue
- Participate and assist LOC (Local Organization Committees) with large city-wide programs and more.

VISITOR MARKETING & COMMUNICATIONS

2017-2018 Program Summary

Visitor Marketing & Communications \$403k:

Publications

- Official Visitors Guide Brochure
- Visit Santa Clara Rack Card
- Monthly CVB eNews

Memberships

- SYTA – Student & Youth Travel Association
- SVTGA – Silicon Valley Tour Guide Association
- SVCA – Silicon Valley Concierge Association
- NTA – National Tour Association
- U.S. Travel Association
- DMA West – Destination Marketing Association of the West
- DMAI – Destination Marketing Association International
- EPPNA – Employee Professional Programs Networking Association

Visitor Services

- Respond to written, telephone, and website consumer requests
- Fulfill brochure requests generated from advertising
- Share consumer requests with hotel community

Websites

- Department develops new content and manages three websites: *SantaClara.org*, *SantaClaraConventionCenter.org* & *SantaClaraSport.org*. The websites are the #1 source for convention/meeting leads and also the primary promotional vehicle for marketing the destination

Social Media

- Manage numerous *Visit Santa Clara* social media channels (listed below) and also social media for the Santa Clara Convention Center and Santa Clara Sports Group
- Social Media channels include: Facebook, Twitter, YouTube, LinkedIn, Trip Advisor, Pinterest, Google +, and Instagram.

Advertising

- Produce print and electronic ads in-house
- Place advertising artwork with publications and electronic outlets
- Manage Tourism Improvement District (TID) advertising in lieu of ad agency

e-Communications

- Submit copy and photos and oversee production of convention and leisure eBlasts in conjunction with contracted e-Marketing company Destination Advantage. eBlasts are sent to an opt-in list of subscribers

Media Releases

- Write and distribute timely media releases to local and national media and convention and leisure travel trade

Santa Clara Sports Group (SCSG)

- Facilitate quarterly SCSG meetings among city's sports venues.
- Manage SCSG microsite and social media.

SANTA CLARA CONVENTION CENTER
Convention Center Sales, Marketing, Services and Operations

2017-2018 Program Summary

The Santa Clara Convention Center's (SCCC) mission is to maximize revenue and economic impact to the City of Santa Clara through meetings, conventions, special events and trade shows by successfully marketing the destination alongside the Santa Clara Convention-Visitor's Bureau. We are empowered, professional team members committed to providing quality facilities and first-class services.

The vision of the SCCC is "leading the way in service, quality, sustainability and innovation as a world class facility, in a world class City."

The goal of the SCCC is to maximize event bookings, while providing our guests with outstanding service, consistently exceeding expectations, and in a manner that secures future business and economic stability.

Convention Center Sales & Marketing Targeted Areas (Center & ARAMARK):

- Local, state, regional, national & international corporate, association and SMERF (social, military, educational, religious, fraternal) and sports groups
- Corporate, social, non-profit, religious business with **No Hotel Room Nights**
- Short term (Up to 18 months) business

Convention Center Sales & Marketing Responsibilities (Center & ARAMARK):

The Santa Clara Convention Center Sales & Marketing are facilitated by:

- Research prospecting new client opportunities
- Solicit new business within assigned market segments
- Ability to respond to requests for proposals (RFP's) and customers in a timely manner
- Solicit new business and cold calling to planners and companies for potential business leads
- Determine and recommend prospective customers by analyzing historical and other statistical information
- Participate/Exhibit with CVB in trade shows, conventions, and promotional events with the industry and customer organizations
- Performing sales calls, site inspections and presentations to prospective businesses & organizations showcasing the convention center
- Providing exemplary service to all events, delegates and visitors that meet in our convention center
- Within established parameters, quote and negotiate prices with customer representatives
- Upon closing, coordinate and follow up by Event Manager to ensure delivery of superior customer service
- Prepare booking sheets & other reports as needed
- Liaison between the convention center and our other exclusive preferred partners
- Provide a qualified list of business contacts, preferred vendors, and other services offered by the City of Santa Clara and Chamber of Commerce
- Establish our position in the competitive landscape through competitive analysis in order to grow market share through new business and retention efforts by creating loyalty

- Leverage market research, competitive intelligence and customer data to create strategic revenue driving programs and enhance our customer's experience

Convention Sales & Marketing Materials (Center & ARAMARK):

- Sales Kits and Promotional Materials
- Special Events / Promo's Website: *santaclara.org*

Memberships:

- MPI - Meeting Professionals International
 - NCCMPI - Northern California Chapter of Meeting Professionals International
 - IAVM - International Association of Venue Managers

Sales Meetings, Trips and Special Events (Center & ARAMARK):

- Monthly local/Bay Area corporate, association and SMERF (social, military, educational, religious, sports and fraternal groups/organizations) sales calls/client luncheons
- Monthly sales team meetings
- Plan and facilitated yearly Open House
- Set-Up various perspective client tours/luncheons

Lead Generating Programs

- *Santaclara.org/Santaclaraconventioncenter.org*
- Santa Clara Convention and Visitors Bureau

Convention Center Operations

- Event Management Team
- Administration Team
- Building Services Team
- Engineering Team
- Security Team
- Smart City/Telecom
- PSAV Audio Visual
- Aramark
 - Customize menus & Design
 - Executive Culinary team
 - Décor
 - Fine dining
 - Flawless execution
 - Creativity and Inspiration for every event

Convention Center Partners:

- ARAMARK (Food/Beverage)
 - Outside Sales
 - Off Premise catering
 - Sustainable and environmentally-friendly practices

- PSAV (Audio/Visual)
 - Smart technology
 - Video production
 - Rigging
 - Expertise with concepts/ideas
 - Advanced technology
 - Single source representation
 - Graphic design
 - Scenic Elements

- Smart City Networks (Telecommunications)
 - High-speed internet
 - Dedicated internet access
 - Wifi for conventions/trade shows
 - Custom security solutions
 - Network design and engineering solutions

- Spot Focus (Digital Advertising)
 - Create custom display content
 - Interactive touch technology
 - Media stations
 - Indoor digital display systems
 - High profile LED signs
 - Real-time information streaming video

- ACE Parking (Parking Controls)
 - Garage Management
 - Parking enforcement
 - Valet services
 - Ground transportation assistance

**AGREEMENT
FOR THE OPERATION OF A
CONVENTION AND VISITORS BUREAU**

EXHIBIT "B"

AMOUNT OF CONTRIBUTION, TERMS OF PAYMENT & RESTRICTIONS

A. Amount of Contribution

Pursuant to the terms of this Agreement for services provided by the Recipient during the twelve month term of this Agreement, City shall pay Chamber said amount in twelve monthly payments as follows: one payment beginning July 1, 2017 in the amount of one hundred twenty one thousand eight hundred one dollars (\$121,801) and eleven consecutive payments of one hundred twenty one thousand eight hundred dollars (\$121,800) beginning August 1, 2017 through June 30, 2018, subject to budget appropriations.

B. Terms of Payment

In no event shall the sum of the City's payment under this Agreement exceed the sum of one million four hundred sixty one thousand six hundred one dollars (\$1,461,601).

**AGREEMENT
FOR THE OPERATION OF A
CONVENTION AND VISITORS BUREAU
CITY OF SANTA CLARA, CALIFORNIA**

EXHIBIT "C"

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million

dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered

excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

AGREEMENT FOR SERVICES
by and between the
CITY OF SANTA CLARA, CALIFORNIA
and
CONVENTION AND VISITORS BUREAU

EXHIBIT "D"
ETHICAL STANDARDS

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor¹ does any of the following:
 - a. Is convicted² of operating a business in violation of any Federal, State or local law or regulation;
 - b. Is convicted of a crime punishable as a felony involving dishonesty.³
 - c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or (3) performing a public contract or subcontract;
 - d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,
 - e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

¹ For purposes of this Agreement, the word "Contractor" (whether a person or a legal entity) means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

² For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

³ As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with the contractor can be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. If the City determines that Contractor no longer has the financial capability⁴ or business experience⁵ to perform the terms of, or operate under, this Agreement; or
2. If the City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, contractor's failure to maintain a required state issued license, failure to obtain a City business license (if applicable), or failure to purchase and maintain bonds and/or insurance policies required under this Agreement.

B. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process, or a contract is terminated pursuant to the these provisions, Contractor may appeal the City action to the City Council by filing a written request with the City Clerk to have the matter heard within ten (10) days of the notice given by the City. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

⁴ Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code [11 U.S.C.], as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

⁵ Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

AGREEMENT FOR SERVICES
by and between the
CITY OF SANTA CLARA, CALIFORNIA
and
CONVENTION AND VISITORS BUREAU

EXHIBIT "E"
AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

I, Paul Dines, being first duly sworn, depose and state I am Chairman of the Board of Directors of Santa Clara Chamber of Commerce Inc. dba Santa Clara Chamber of Commerce Convention-Visitors Bureau and I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit C. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

SANTA CLARA CHAMBER OF COMMERCE
d.b.a. SANTA CLARA CHAMBER OF COMMERCE
AND CONVENTION-VISITORS BUREAU
a California Non-profit Corporation



Joe Sfecinski
Chair of the Board

NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SANTA CLARA)
On JUNE 22, 2017 before me, KATHY FLOOD
Date Here Insert Name and Title of the Officer
personally appeared JOSEPH SIECINSKI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Kathy Flood
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: AFFIDAVIT OF COMPLIANCE Document Date: JUNE 22, 2017
Number of Pages: 1 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

City of Santa Clara

Council Meeting

Item #9 - Discussion and Direction on Agreement for Convention and Visitor Services with Santa Clara Chamber of Commerce or Other Provider

June 26, 2018



**City of
Santa Clara**
The Center of What's Possible



Background

- Study Session on Convention Center Operations held in February 27, 2018
- Session led to additional Council inquiries, which resulted in follow-up meetings with Chamber in early April.
- Focus was on management of Convention Center operations, per agreement provisions.
- Separately, on May 22, 2018, Council directed an formal audit:
Direct the City Manager and City Attorney to begin a process of exploring a term sheet for a new agreement with the Chamber of Commerce for their management of the Convention Center; begin the process to execute a financial and performance audit of the Chamber; and that the management fee be suspended until such time that we can enter into a new agreement.



Management/Operations (April 2018)

- Review Chamber contracts for:
 1. Chamber Management of Convention Center (Management Fee)
 2. Chamber Agreement for CVB (expiring on June 30)

Note: Several information requests made and responded to, with some outstanding.



Audit Objectives (May 2018)

- **Trend Analysis, Fiscal Health Review:** Assess revenues and expenditures for Convention Center over the past 10 years
- **Operational Assessment:** Assess adequacy of structures, systems, controls, and processes that impact financial management of the Convention Center (including CVB)

Note: Response to audit information request have been responded to, to our knowledge.



Current Status



- Two agreements with the Santa Clara Chamber of Commerce:
 - Management agreement for the operation of the Santa Clara Convention Center; and
 - **Agreement to provide convention and visitor services promoting tourism in the City of Santa Clara and to market the Santa Clara Convention Center (CVB Agreement).**
 - Current agreement not to exceed \$1,461,601 expires June 30, 2018.



CVB Agreement - Purpose

- Promote tourism and commerce in Santa Clara
- Provide group sales and marketing services for Convention Center
- Provide visitor information services
- Operate a City Store



Chamber -- CVB Agreement

- Expires June 30, 2018 – Service disruption inevitable due to time required to execute a new contract
- Delays in receipt of information have impacted City's ability to assess status of Agreement, and whether to recommend or amend it. (We are advised that some information may have been forwarded inadvertently to the Auditor, not City)



Chamber -- CVB Agreement

- City Council authorization to continue of services absent a contract agreement is **not** recommended
- Recent compliance from Chamber to provide full access to information for the purpose of inspection of operations and the Council directed audit have surfaced oversight issues (preliminary observations), e.g., conflicts, training, financial transactions, self-dealing/fee waivers and discounts, asset inventory, etc.
- Additional requests for information are pending.



City Requested the Chamber's Conflict of Interest Policy



Conflict of Interest Policy

The purpose of this Conflict of Interest Policy is to protect the interests of the Santa Clara Chamber of Commerce & Convention-Visitors Bureau. Each Officer, Board Member and staff member shall act in the best interest of the organization and disclose any conflicts of interest.

A conflict of interest exists when officers, board members or staff has a direct or indirect business, professional or personal situation or relationship that may influence or be perceived to influence the judgment or action of the officer, Board Member or staff when servicing the Santa Clara Chamber of Commerce & Convention-Visitors Bureau. Such conflicts of interest include, but are not limited to: personal and professional affiliations and business dealings.

All real or perceived conflicts of interest will be disclosed to the appropriate level of authority necessary for consideration, resolution and direction.

Officers, Board Members and staff will be required to sign a conflict of interest form.

Conflict of Interest Form

I have read and understand the Conflict of Interest Policy, and understand that it is my obligation to act in a manner that promotes the best interest of the Santa Clara Chamber of Commerce & Convention-Visitors Bureau and to avoid conflicts of interest when making decisions and taking actions on behalf of the Santa Clara Chamber of Commerce & Convention-Visitors Bureau.

I agree to disclose to the proper level of authority any real or perceived conflicts of interest that may arise during the course of my tenure with the organization.

Additionally, I agree to abide by the direction and decision rendered by the Santa Clara Chamber of Commerce & Convention-Visitors Bureau.

Name (print) _____

Signature _____

Date _____

CONFLICT OF INTEREST DISCLOSURE FORM

Date: _____

Name: _____

Position (employee/volunteer/director): _____

Please describe below any relationships, transactions, position you hold (volunteer or otherwise), or circumstances that you believe would contribute to a conflict of interest between the Santa Clara Chamber of Commerce & Convention-Visitors Bureau and your personal interests, financial or otherwise:

_____ I have no conflict of interest to report

_____ I have the following conflict of interest to report (please specify other non-Profit and for-profit boards you (and your spouse) sit on, any for-profit businesses for which you or an immediate family member are an officer or director, or a majority shareholder, and the name of the employer and any businesses you or a family member own):

1. _____

2. _____

3. _____

I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have reviewed, and agree to abide by, the Policy of Conflict of Interest of The Santa Clara Chamber of Commerce & Convention-Visitors Bureau.

Signature: _____

Date: _____



Chamber Conflict of Interest Policy

- “A conflict of interest exists when officers, board members or staff ha a direct or indirect business, professional or personal situation or relationship that may influence or be perceived to influence the judgment or action of the officer, Board Member or staff when servicing the Sat Clara Chamber of Commerce & Convention-Visitors Bureau...”
- “All real or **perceived conflicts of interest** will be disclosed to the appropriate level of authority necessary for consideration, resolution and direction.”



**City of
Santa Clara**
The Center of What's Possible

From: Santa Clara Chamber of Commerce <alice.martinez@santaclara.org>
Date: March 12, 2018 at 1:04:07 PM PDT
To: <dsantana@santaclara.gov>
Subject: Event Update: Power Planning Initiative, Golf Tournament & more!
Reply-To: <alice.martinez@santaclara.org>



Shaping the Future of Santa Clara | Visit santaclarachamber.com
Today

EVENT SPOTLIGHT

JOIN US

**Santa Clara
Chamber PAC: Golf
Tournament**

Thursday, May 3
7:30 AM - 5:30 PM
Pruneridge Golf Club

We invite you to play GOLF!
Limited spots are available.

Admission Includes:

- Course Fees
- Lunch – Spread of meats, cheeses, fruits and vegetables
- Dinner – Hamburgers, hot dogs, chicken and vegetarian choices



BANQUET SPONSOR
THE MENARIK LAW GROUP

TEE HOLE SPONSORS
SLATTER CONSTRUCTION
OFF THE WALL SOCCER
DAVID D. TOBKIN, CPA

From: Santa Clara Chamber of Commerce <alice.martinez@santaclara.org>
Date: April 5, 2018 at 1:01:06 PM PDT
Subject: Santa Clara named No.2 City for Women Entrepreneurs!
Reply-To: <alice.martinez@santaclara.org>



Shaping the Future of Santa Clara | Visit santaclarachamber.com Today



BUSINESS.ORG RESEARCH

39% of all US businesses are owned by women. Business.org examined five key metrics, and their research found that Silicon Valley (San Jose-Sunnyvale-Santa Clara) ranked as the No.2 City for women-owned businesses!

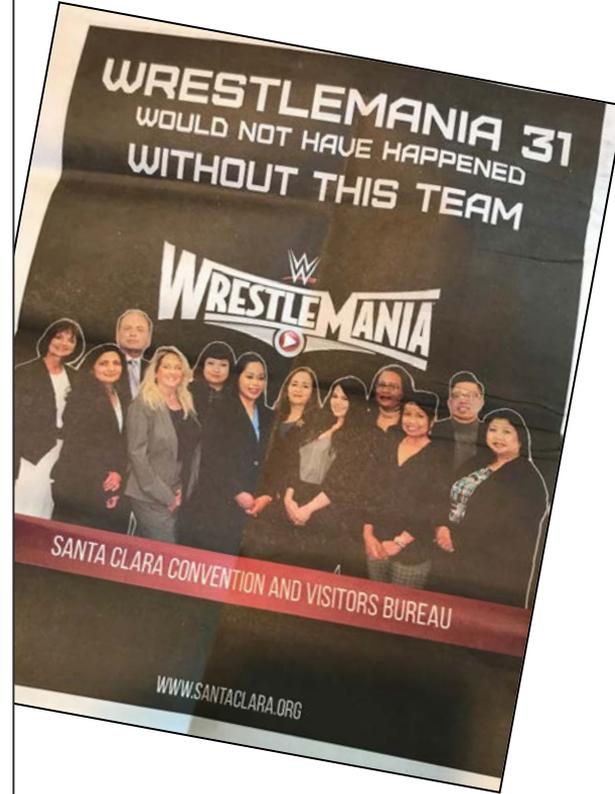
ADVERTISEMENT



Santa Clara Chamber PAC Golf
Tournament

On May 3rd, the SCC PAC is hosting a Golf tournament. It will be held at the Pruneridge Golf Course and players will go through this 9 hole twice. The price of admission includes unlimited food and beverages.

[REGISTER NOW](#)





Conflict of Interest

- Significant delay in Chamber's ability to demonstrated compliance with its Conflict of Interest Policy and Board's execution of Policy, despite multiple requests for this information over time
- Chamber has responded to City's request for how these actions comply with their Conflict of Interest policy, under review and audit. As of June 25, Chamber has confirmed that the City has all executed Conflict of Interest Policy statements from the Board (irregular observations of maintenance of documents)
- Response appears to illustrate a incomplete understanding of the complexities of managing public funds and facilities, possible conflicts of interests



Conflict of Intrest

- For Tax Years 2009, 2010, 2011, 2012, 2013, 2014, 2015
 - Federally Filed 990s – Return of Organization Exempt From Income Tax – Chamber “under penalty of perjury” states that it does not have a Conflict of Interest Policy
- City inquired about Board training, Form 700, and policies relative to managing real or perceived conflicts



Part VI Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7b below, and for a "No" response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O See instructions

Check if Schedule O contains a response or note to any line in this Part VI

Section A. Governing Body and Management

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

	Yes	No
10a Did the organization have local chapters, branches, or affiliates?		No
b If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?		
11a Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	Yes	
b Describe in Schedule O the process, if any, used by the organization to review this Form 990		
12a Did the organization have a written conflict of interest policy? If "No," go to line 13		No
b Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?		
c Did the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this was done		
13 Did the organization have a written whistleblower policy?		No
14 Did the organization have a written document retention and destruction policy?		No



Audit Observation #1

- There is a long standing practice (since the Convention Center opened) that the Chamber, on its own initiative, grants **20% discounts to all chamber members** that rent convention center space.

*Note: This could be viewed as irregular and without a stated policy or the **disclosure or concurrence** of the city. Potential lost revenue to the City and potential conflicts.*



Audit Observation #2

- There is preliminary evidence that the Chamber **grants itself complete discounts on space rental for Chamber events and only pays for food and beverage**, including major Chamber fund-raising events, providing significant value to Chamber.

*Note: This could be viewed as irregular and without a stated policy or **the disclosure or concurrence of the city**. Potential lost revenue to the City and potential conflicts.*



Preliminary Observations

- It is important to understand that these observations are **preliminary** and do not yet constitute formal audit findings, but we believe it is possible (maybe likely) that document production and audit analysis will substantiate these observations and more.
- **The absence of disclosure of these practices in the required reporting is of concern to City. The magnitude of lost revenue to the City is unknown, and potential conflicts is TBD.**



Free Use Examples Under Examination

- City of Santa Clara (City owned facility)
- Santa Clara Chambers Political Action Committee
- Hyatt Hotel
- 49ers Foundation
- CVB (weddings and graduations)
- Chamber (Pyramid dinner and meetings)
- Mission City Community Fund

The number of events booked and discounted to \$0 ranges from 30 to 75 events across the years.



Form 990 – Revenue (rent for real property)

- Open discussion item on rental income

Year	990	CVB Contract
July 1, 2013 – June 30, 2014	\$ 46,108	\$91,232
July 1, 2014 – June 30, 2015	\$ 45,158	\$91,232
July 1, 2015 – June 30, 2016	\$ 44,492	\$91,232
July 1, 2016 – June 30, 2017	\$ 44,375	\$91,232



Form 990 (2016)

Page **9**

Part VIII Statement of Revenue

Check if Schedule O contains a response or note to any line in this Part VIII

	(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512-514
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3 Investment income (including dividends, interest, and other similar amounts) ▶

1,629

1,629

4 Income from investment of tax-exempt bond proceeds ▶

5 Royalties ▶

6a Gross rents

(i) Real	(ii) Personal
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44,375

b Less rental expenses

20,422

c Rental income or (loss)

23,953

d Net rental income or (loss) ▶

23,953

23,953



City Concerns

- Disclosure of information to the City, with related loss of revenue
- No Chamber policy outlining fee waivers and/or discounts, City has never been presented with a policy to consider nor does the agreement permit this activity
- Chamber action to benefit Board/members may constitute self-dealing
- Value of lost revenue is unknown, City staff has requested reports
- Possible FPPC issues (SCCPAC)



City Concerns

- Board and Chamber staff training on management of public funds and facilities -- Chamber Board meeting minutes suggest loose oversight
- Board and Chamber staff training and ability to manage, and prevent, conflicts or appearance of
- Board/Chamber staff position on asset inventory, and City's inability to understand magnitude of assets



**City of
Santa Clara**
The Center of What's Possible

CVB Agreement – July 1, 2018



Policy Alternatives

1. Maintain the Status Quo: Execute a One-Year Agreement
2. Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts
3. Direct City Manager to Negotiate and Execute a Bridge Agreement to:
 - a) Transition to another provider or
 - b) Determine Long Term Agreement Terms with the Chamber
4. Any Other Action Determined by the City Council

City of Santa Clara



**City of
Santa Clara**
The Center of What's Possible



Alternative 1

- Staff would issue a contract and restore the same contractual terms as soon as possible to minimize a disruption in services.
- Additional funds would be required; the FY18/19 budget includes \$1,461,601 for CVB-related services.
- Preserves status quo without the benefit of any further due diligence.
 - Chamber continues to oversee CVB operations (\$1,461,601 annually)
 - Maintains option to terminate contract (90-day noticing provision; \$365,000 estimated cost for the noticing term)



Alternative 1

- Staff believes that it would be premature to pursue this policy option since the audit findings could be key to developing new agreement terms and the 90-day noticing term is too costly.



Alternative 2

- Contractual relationship with the Chamber for managing CVB operations would end June 30, 2018.
- No contractual services provided as of July 1, 2018, until City approves contract with a new service provider.
- Maximum flexibility for City to implement new practices and governance.
- Eliminates the 90-day noticing requirement.
- Allows City to test market for other providers, services costs.



Alternative 2

- Transitional support needs to be reprioritized against other work.
- Staff does not have an asset inventory in its possession to establish transfer arrangements.
 - Information requested, but not provided by Chamber.
- Total fiscal impact of allowing contract to expire is unknown
 - No time to analyze pros and cons before June 30 for a more informed City Council policy decision.
- Convention Center would have service delays, some disruption and/or potential loss of business



Alternative 3

- Allows existing service structure to continue for up to four months while new terms are identified and determined with either the current or a new provider.
- Allows parties to benefit from performance and financial audits which could inform next.
- Council could also provide direction on
 - Commencement of negotiations with Chamber for continued services;
 - New contract with an alternate service provider; or
 - Alternate course of action.



Alternative 3

- Provides flexibility to City while determining future of these services and service provider.
- Preserves service in its current form for an interim term, while creating an environment where improvements could be achieved, data and information validated, and improved performance outlined with either the current provider or a new provider.



Recommendations

Alternative #2: Allow Agreement to Expire and Direct the City Manager to Seek Another Provider for These Services and Execute Contracts;

OR

Alternative #3: Direct City Manager to Negotiate and Execute a Bridge Agreement to:

- a) Transition to another provider; or
- b) Determine Long Term Agreement Terms with the Chamber



M O N T H L Y

R E P O R T

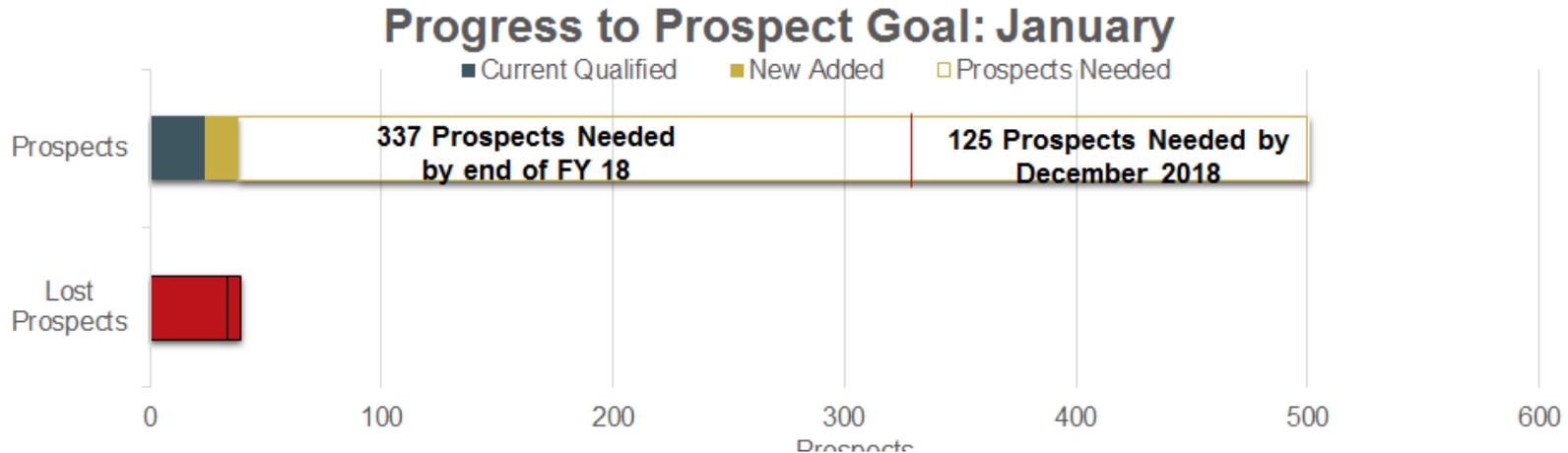
Santa Clara CVB Citywide Report
January 2017



Monthly Report - Citywide Event Goals

Prospects

This requires an ongoing 500 prospects being “worked” by the sales team. For purposes of this report the threshold includes all events with 600 peak room nights or greater.

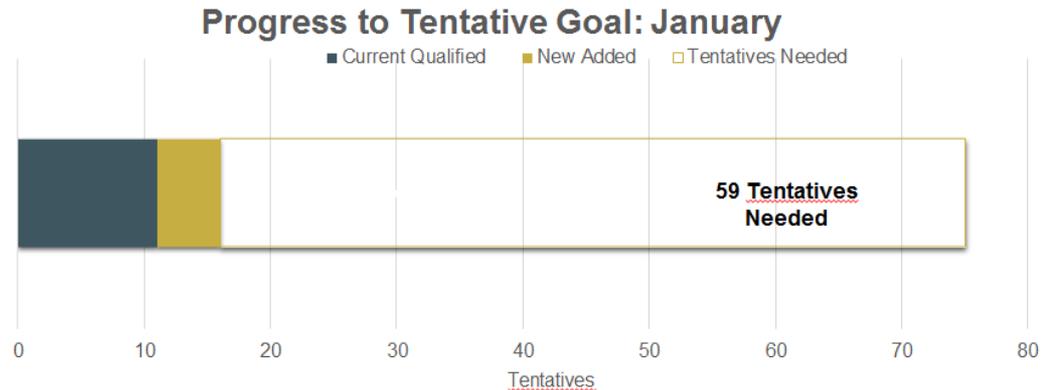




Monthly Report - Citywide Event Goals

Tentative Lead

- The activity goal: 75 tentatives in play on an ongoing basis.
- 2 tentative leads added in Jan. Equates to 21% of the one-year goal.
- At this pace, on track to add 25 new tentatives by the end of the fiscal year or 55% of the goal.

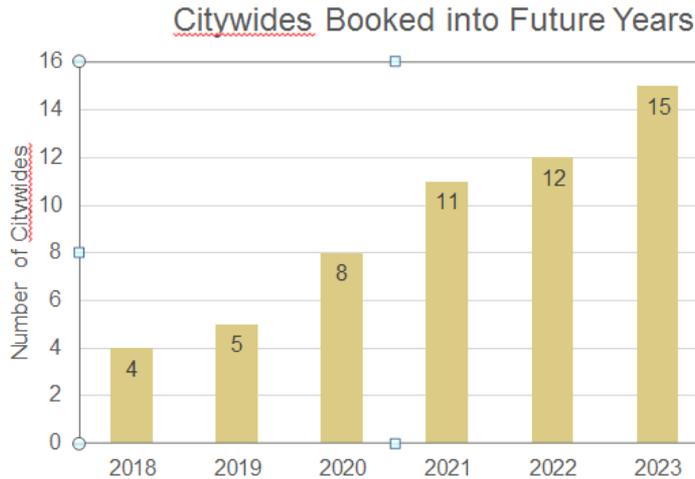




Monthly Report - Citywide Event Goals

Definites

- The goal: 15 Citywides annually on the calendar from 2023 onward.
- To meet this goal: Book 54 incremental definites over the next 5 years.





Employees

63 Employees:

- 4 Chamber
- 46 Convention Center
- 13 CVB
(TID-2)

