COUNCL AGENDA: 09-21-10
ITEM: 4.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Paul Krutko

SUBJECT: SEE BELOW

DATE: September 14, 2010

Approved

Date 9/15/10

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: RESOLUTION TO EXTEND AGREEMENT WITH TEAM SAN JOSÉ FOR CONVENTION AND VISITOR BUREAU (CVB) SERVICES FOR 90 DAYS.

REASON FOR ADENDUM

The current Convention and Visitors Bureau (CVB) agreement is set to expire on September 30, 2010. Staff is requesting a 90 day extension which will ensure that funds are available to pay expenses during the second quarter of the fiscal year and no interruption in services provided by the CVB.

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the existing Second Amended and Restated Agreement between the City of San Jose and the San Jose Convention & Visitors Bureau until December 31, 2010, with a compensation for the extension period not to exceed $1,100,000.

OUTCOME

Approval by City Council of the recommendation will result in extension of the existing agreement with Team San José ("TSJ") for Convention and Visitor Bureau ("CVB") services until December 31, 2010.

BACKGROUND

Launched in 2004, Team San Jose is a non-profit management corporation that operates the San Jose Convention Center and cultural venues such as South Hall, Parkside Hall, San Jose Civic, California Theatre, Center for the Performing Arts and Montgomery Theater, and serves as the convention and visitors bureau for San Jose.

At the January 27, 2009 meeting City Council approved the agreement for the management of the Convention Center and Cultural Facilities with TSJ for an additional five-year term.
The City Council memorandum for that action explained that TSJ and CVB were working to would merge into one corporation but that there would still need to be two separate agreements; one for management of facilities and one for CVB/marketing and sales services. TSJ and the CVB merged on February 1, 2009.

The January 2009 Council action also explained the value of aligning the two agreements for the same time period. The Management Agreement with TSJ has a term beginning on July 1, 2009 and ending June 30, 2014. The current amended and restated agreement with the CVB was executed June 21, 2005 and includes two five-year periods from July 1, 2000 to June 30, 2010.

On June 22, 2010 the Council approved a 90 day extension of the old agreement, under the same terms and conditions, with three months compensation under their approved budget. This time frame allowed the City and TSJ additional time to negotiate a new contract. Since that time the City and TSJ have met on several occasions. On September 13, 2010 the City was notified by TSJ that they would agree to the final terms set forth by the City.

On August 2, 2010 the City Manager's Office became aware that TSJ spent $750,000 over the Council adopted appropriation. On August 18, 2010 the City served TSJ with a "Notice of Default" under the terms of the Management Agreement due to this overage. The notification also included an immediate corrective action plan which included audits of the "Receipts and Operating Accounts" and "Agreed Upon Procedures." Both of these audits are currently being conducted.

ANALYSIS

While negotiations are complete, staff is recommending an additional 90 days extension of the old agreement, under the same terms and conditions, with three months compensation under their approved budget. Given the scope of work currently underway and the uncertainty surrounding the results of both audits, staff believes it would be premature to move forward with a long-term commitment with TSJ for CVB Services. Both audits are scheduled to be completed by mid-November. The extension will allow the City Council to have a clearer picture of TSJ management before entering into a long-term commitment.

It is recommended that $1,100,000 be allocated for this extension to ensure that funds are available to pay expenses during the second quarter of the fiscal year. This will ensure no interruption in services provided by the CVB.

EVALUATION AND FOLLOW-UP

City staff will return to the City Council before December 31, 2010 with the agreement between the City and Team San Jose for Convention and Visitors Bureau Services.

POLICY ALTERNATIVES

Policy alternatives were provided as part of the related December 2, 2008 City Council report and were not considered viable to pursue. These basically included not entering into an agreement with the CVB for the convention and visitors service work program.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater.
  (Required: Website Posting)
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

The content of this staff report has been prepared by the City Manager's Office in coordination with the City Attorney's Office, Budget Office, Finance Department, Human Resources Risk Management section and Airport. In addition coordination included staff from the merged TSJ and CVB organization and TSJ/CVB legal counsel.

COST SUMMARY/IMPLICATIONS

In the 2010-2011 Adopted Operating Budget, funds are allocated to the Convention and Visitor's Bureau in the General Fund ($1,094,267) and the Transient Occupancy Tax Fund ($2,138,279). This action, therefore, will not result in additional expenses for the City and will allow for staff to complete analysis on the 2009-2010 overage before moving forward with a long-term commitment with TSJ for CVB services.

CEQA

Not a Project, File No.PP10-066 (e), Agreements/Contracts.

PAUL KRUTKO
Chief Development Officer

For questions please contact Lee Wilcox, Downtown Coordinator, at 408-535-8172.