

9/18/18

item 4

# **City of Santa Clara**

## **Various Actions regarding the Convention Center**

**Item # 4**

September 18, 2018



## **Agenda**

- **Introduction**
- **Four items before the City Council:**
  1. Presentation of Performance Audit from TAP International on the Santa Clara Convention Center and Convention-Visitors Bureau (CVB)
  2. Santa Clara Convention Center and Convention-Visitors Bureau Financial Status Report for the FY 2017/18 4th Quarter
  3. Action on the Chamber's Management Agreement for Managing and Operating the Santa Clara Convention Center
  4. Action to Add Two Positions and Funding to Manage the Implementation of the Audit Recommendations and Oversight

# Introduction

- Business due diligence to audit; although it was the City's responsibility per Management Agreement, it did not audit the operator for 30+ years
- City enabled a high-risk environment, without any internal oversight
- No City Council policy action to sell the Convention Center or repurpose the facility

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## Council Strategic Session Jan. 2018



### Currently Absent

- Program Management
- Contract Management
- CRM System
- Process Audits
- Internal Control Audit

### Limited Capacity

- Risk Management
- Intergovernmental Relations
- Public Information Officer
- Economic Development

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## Benefits of Audits



### Assess State of Operations

- Internal Control System
- Contract Management
- Risk Management
- IT Systems
- Fiduciary Responsibility

### Audit Implementation

- Reforms Systems
- Identifies readiness and creates opportunities for innovation

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## Convention Center Agreement

- **Chamber of Commerce started operating the Convention Center in 1984**
  - Never subject to a performance audit/contract provisions required
- **Lack of City oversight and contract management**
  - Contract management was assigned to several departments as a collateral assignment/no paper record-keeping for oversight
- **City did not uphold its fiduciary responsibility**
  - Allowed an environment to exist where City lost revenue. Multi-year subsidies could have been used for other City budget investments.

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# Overview of Previous Council Direction



## Convention Center & CVB



### Convention Center Management Agreement - May 22, 2018

1. Explore a term sheet for a new agreement with the Chamber
2. Begin process to execute a financial and performance audit
3. Suspend management fee until such time as completed

### CVB Contract - June 26, 2018

1. Council allowed the contract to expire
2. Provided 60 days of salary pay for transition/close out services for CVB employees



Status of Council Direction	Status	Comments
Independent Performance Audit		Financial audit not performed, performance audit provides indication of financial areas to review further
Term Sheet – New Agreement with Chamber		Audit findings provide indication of next steps for the Council to consider and areas of terms that would need to be included in a Term Sheet. Staff does not recommend continuing service under the existing agreement with the Chamber.
Suspend Management Fee Payments		No payments have been issued since Council's action in May 2018.
CVB Services Transition/Close Out		Chamber terminated its employees. Staff is requesting funding to begin reconciliation of close out activities.

## Convention Center and CVB Agreements

- **Convention Center Management (ongoing)**
  - Oversight and day to day management of Convention Center
  - Hiring Staff
  - Marketing, Advertising, Promoting and Booking Events with limited resources
- **Convention-Visitors Bureau (expired June 30, 2018)**
  - Promoted Tourism and Commerce in Santa Clara
  - Provided group sales and marketing services for Convention Center
  - Provided visitor information
  - Operated a City Store

## **Audit & 4<sup>th</sup> Quarter Reports**



### **Audit Findings Show Mismanagement**

- **Poor management of public funds financial mismanagement**
  - \$37 million in lost revenue and subsidies to the City for the audit period
- **Problematic accounting and unexplained expenditures**



## Net Lost Revenue & City Subsidies

Item	Amount (in Millions)	Note	Time Period	Audit
Facility Discounts	(\$16.1)	For 1,720 events	2011-18	Pg. 39
Facility Free Rent (353 events)	(\$2.8)	Includes free rentals for chamber members, birthday parties and wedding receptions for insider	2011-18	Pg. 40
Bonus Payments to Convention Center Staff	(\$0.3)	Bonus payments over four fiscal years only. It is likely to be more with further review	2014-17	Pg. 25
City General Fund Capital Expenditures	(\$2.4)	Includes \$82,039 of City funds paid in 2007, not included in the audit	2007-17	Pg. 16
Annual Payment to CVB	(\$14.9)	\$14.9 million in City payments subsidized CCs/CVB net loss of \$9.4 million	2007-17	Pg. 56
City Paid Mgmt. Management Fee	(\$0.5)		2007-17	Pg. 15
<b>Total Lost Revenue and City Subsidies</b>	<b>(\$37.0)</b>			

## Net Lost Revenue & City Subsidies

Item	Amount (in Millions)	Note	Time Period	Audit
<b>Total Lost Revenue and City Subsidies</b>	<b>(\$37.0)</b>			
Positive Direct SCCC/CVB Financial Impact	\$11.3		2007-17	Pg. 21
Convention Center Net Income	\$5.2	Does not include the City paid management/administration fee	2007-17	Pg. 15
<b>Total Positive SCC/CVB Financial Impact</b>	<b>\$16.5</b>			
<b>Total Net Lost Revenue and City Subsidies</b>	<b>(\$20.5)</b>			

## **Audits Findings (Continued)**

- **Misuse of government resources (personal gain, inappropriate bonuses/commissions, and political fundraising activities)**
  - Potential of violation of 501c (6) Tax exempt status due to full facility discounts to its members, self-dealing, and conflict of interest without a competitive bid
- **Conflict of interests by Chamber staff & Board members (self-dealing that went uncorrected/undisclosed until City asked)**
  - Potential violation of the California Fair Political Practices Commission laws by allowing the Santa Clara Chamber Political Action Committee to use the SCCC facilities free of rent

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## **4<sup>th</sup> Quarter Report re SCCC/CVB**

- **Unaudited report submitted for review and acceptance**
- **Lacks information from prior reports (e.g.: room rental nights, convention attendees, and estimated revenues for convention center rental and TOT)**
  - Chamber prematurely released employees without securing access to systems for the information although Council authorized 60 days of salary pay for transition/close-out services. Did not secure its contract compliance requirement to report on activity.
- **Concern about whether the Chamber is positioned to manage the City's public assets**

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## **City Corrective Action Required**



### **City's Role Re: Audit Findings**

- Allowed a high-risk environment with respect to absence of contract administration including unmonitored access to City's financial systems, and lack of dedicated staff to support this enterprise
- No staffing to establish and maintain internal controls, regular oversight, and activities that require City Council action

## **City's Role Re: Audit Findings**

- Contract management/oversight duties have been either not present or split among several staff members and departments as collateral assignments. City has not done well with record-keeping.
- Audit findings and TID non-compliance illustrate our own mismanagement due to lack of staffing and oversight

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## **City's Role Re: Audit Findings**

- Failure of policy discussion to net-subsidize Convention Center and CVB services or require full cost-recovery.
- City allowed several years of subsidies without making a policy decision on whether this was appropriate for public funds.

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## Corrective Actions

- Issue 180 day termination notice
- Cooperate with FPPC and IRS on potential violations found of FPPC law and 501c(6) exempt status
- Select a qualified Management Company for Convention and CVB Services through a competitive Request for Proposal process within the next six months
  - Chamber of Commerce is welcome to submit a bid

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## Corrective Actions (Continued)

- Incorporate best contract management practices in the new management agreement, using a professional consultants
- Add staff and contractual funding to administer RFP process, implement audit findings, close out/reconciliation work, and manage contract to improve and implement oversight and systems

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## Workplan Timeline

Workplan	When?	Comments
Issue 180 Day Termination Notice	Sept. 19, 2018	Supplemental Memorandum issued today transmits the Termination Notice
Council action and Presentation of Response to the Audit	Oct. 9, 2018	Staff recommends that the City Council invite the Chamber to submit a response
Council Direction on RFP next steps	Oct. 9, 2018	<ul style="list-style-type: none"> <li>• Staff will work with JLL to develop the RFP framework and scope of work</li> <li>• Business models are driven by a subsidized or cost-recovery model</li> </ul>

## Workplan Timeline (Continued)

Workplan	When?	Comments
Release the RFP for Convention Center & CVB Management Services	Week of Oct. 15	Staff will incorporate any Council feedback on the audit and RFP framework
City Council Action on Proposals	By Jan 2019	
City Council Approval of Contract	By Feb 2019	
Transition to New Company	TBD	Transition is determined by the ability for the selected provider, as well. Goal is for a March transition, but the schedule is ambitious.

## **Resourcing the Workplan and Continuous Oversight**

- **Dedicated City Staff Resources**
  - 1.0 Assistant To The City Manager
  - 1.0 Office Specialist (other part of FTE will be for 0.5 FTE to support Stadium Authority professional staff)
- **Contractual Funding (\$100,000)**
  - Close out the CVB contract in a timely fashion and perform additional audits, if needed

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## **Recommendations**

- **Note and file the SCCC and CVB Financial Status Report for the 4<sup>th</sup> quarter and fiscal year ended June 30, 2018.**
- **Direct the City Manager to:**
  - Issue the 180-day termination notice to the Santa Clara Chamber of Commerce
  - Simultaneously engaging in a competitive bid process for the management and operation of the Santa Clara Convention Center
  - Take necessary actions to stabilize Convention Center operations and to minimize further impact to public resources and assets

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## Recommendations (cont'd)

- **Add 1.0 Assistant to the City Manager and 1.0 Office Specialist III positions in the City Manager's Office for Contract Management and Oversight of the Santa Clara Convention Center and Tourism Improvement District and Stadium Authority activities and Approve Related Budget Activities;**
- **Authorize the City Manager to amend existing contracts, as needed, above the City Manager's contract approval authority in support of Conventions and Visitors' Bureau close-out and other contract management activities not to exceed \$100,000 in total additional funding**

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## City of Santa Clara

### Various Actions regarding the Convention Center

#### Item # 3

September 18, 2018





