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**Attachments:** 1. Convention Center Management Agreement, 2. Convention Center Complex - Actuals FY 02/23 thru FY 16/17 & FY 17/18 Budget, 3. Chamber of Commerce Letter Received May 10, 2018

Date	Ver.	Action By	Action	Result
5/15/2018	1	City Council and Authorities Concurrent	Continued	Pass

**REPORT TO COUNCIL**

**SUBJECT**

Direction on the Management Fee for the Santa Clara Chamber of Commerce & Convention-Visitors Bureau for Management of the Santa Clara Convention Center

**BACKGROUND**

This staff report was scheduled to be heard by the City Council on May 8, however, it was deferred at the City Manager’s request. Therefore, this report is brought forward for Council consideration for May 15, 2018. Please note that this report also includes a letter from the Chamber of Commerce regarding a management fee recommendation received on May 10, 2018 in the City Manager’s Office.

On March 27, 1984, the City of Santa Clara executed a Management Agreement (Agreement) with the Santa Clara Chamber of Commerce & Convention-Visitors Bureau (Chamber) for the management and operation of the Santa Clara Convention Center (Attachment 1). Through the Agreement, the Chamber is charged with performing all services necessary to direct, manage all Convention Center operations including marketing and promoting the center; booking of events; hiring of staff; and daily operations of the center including accounting, catering, janitorial, and maintenance. The Agreement, however, does not contain language for a fee for which the City would pay the Chamber of Commerce & Convention-Visitors Bureau for conducting work.

On February 27, 2018, Council held a study session on the Convention Center. Information was presented to City Council that provided background of the convention center; management agreement; fiscal history; users and use activity of the convention center; and, convention center facility assessment/investment was provided.

Upon that presentation, Councilmembers began to inquire about the increased management fee

payments in recent years and the authority for which payments were increased (Attachment 2)

Staff has reviewed the history of the management fee and the authorizing documents. Staff research surfaced that an annual fee has been paid to the Chamber to manage the Convention Center since the 1980s. However, while the fee to the Chamber has been regularly included and accounted for in the City’s budget process and has been regularly noted in the City’s Comprehensive Annual Financial Report (CAFR), the contract with the Chamber does not explicitly provide for a management fee or any parameters for the amount or purpose. In addition, for decades, staff has been paying a management fee without a required contract that specifies the payment terms and structure for which to issue public funds. This can be corrected through formal agreements.

As such, staff is seeking direction from the Council to formally establish contract provisions for a management fee. Upon Council direction, staff will return to the Council with the appropriate proposals for consideration.

**DISCUSSION**

The inclusion of fees in management agreements is a common practice typically structured as a base and performance-based management fee. The base fee compensates a service provider for their specialized professional skills and abilities, as well as the time spent by firms on the active management of assets. The performance-based fee is structured to enhance increased utilization of the managed asset based on relevant performance criteria. Fees can be based on a percentage of revenue; a fixed amount or a combination of the two. Accompanying fees are performance targets and outcomes that must be met to justify payment.

An annual management fee associated with the Chamber’s role in the management of the Convention Center has historically been paid by the City. For several decades, the Chamber was paid an annual fixed management fee of \$45,000, as stated, without agreement provisions relating to the amount or to performance targets. Over the past three fiscal years, the management fee has been increased without proper disclosure to the City Council nor required legal agreements, as follows:

Fiscal Year	Management Fee Paid	Notes
2013/14	\$ 45,000	
2014/15	\$ 47,250	
2015/16	\$ 50,000	
2016/17	\$136,699	2% of the budgeted revenue
2017/18	\$145,292	2% of the budgeted revenue
2018/19	TBD	\$150,573 (included in recommended budget pending Council action)

An agreement with the Chamber is necessary for transparency and to bring the payment of a fee into compliance with the City’s normal business practices. Staff is requesting direction from the Council on the parameters of a management fee to incorporate into a new agreement. Possible fee structures could include one of the following alternatives:

- **Option 1: A fixed fee amount based upon % of budgeted revenue.** Under this scenario, a fixed fee would be established based on a percentage of projected revenue. This is similar to

the methodology used in FYs 2016/17 - 2017/18 and set at 2%.

- **Option 2: % of budgeted revenue with reconciliation at the end of the FY.** This scenario builds off of the concept in Option 1, but includes a financial reconciliation that can result in a greater or reduced payment based on the actual revenue achieved. This methodology provides for an incentive to perform to obtain the projected revenue or a greater amount. This methodology also contains a punitive feature for failure to achieve projected revenue.
- **Option 3: Fixed fee amount.** This option maintains the flat fee structure that had been used since the inception of the agreement between the City and Chamber of Commerce & Convention-Visitors Bureau. The flat fee can be either:
  - (a) Renegotiated to a new amount or
  - (b) Maintained at the past amount before increases were implemented.

The Chamber was compensated with an annual management fee of \$45,000 from 1984 through FY13/14.

- **Option 4: Fixed fee amount using the established flat management fee of \$45,000 and adjust for the Consumer Price Index (CPI).** This option maintains the flat fee structure and amount that had been used since the inception of the agreement between the City and Chamber of Commerce & Convention-Visitors Bureau, but includes an inflation factor based on the CPI. If an inflation factor was applied to the \$45,000 fee amount at:
  - (a) 2% the annual fee would be approximately \$88,000 and
  - (b) 3% the annual fee would be approximately \$123,000.

These adjustments do not include recession years where the CPI was less than 2% or 3%.

- **Option 5: Combination of a flat fee possibly enhanced by a performance incentive, established through performance outcomes in the agreement for which performance is measured and determined beyond actual revenue.** This option offers a flat fee for management and builds in an incentive for performance, as established by key performance indicators (KPIs) in a management agreement.

### ***Convention-Visitors Bureau Agreement for Services***

The only proposed options that include performance incentives are Options 2 and 5. In addition to the annual management fee, the City has historically funded a separate annual agreement for services provided by the Convention-Visitors Bureau which is also a part of the Chamber.

Staff met with representatives of the Chamber on May 8, 2018. The Chamber has submitted a letter regarding their recommendation on the management fee (Attachment 3).

Following Council direction on the management fee, staff will work with the Chamber to prepare necessary agreements and return for Council consideration of both the management fee and the Convention-Visitors Bureau annual agreement in June 2018. The amount paid to the Convention-Visitors Bureau Agreement for Services is included in Attachment 2. Given the current structure of management of both the Convention-Visitors Bureau and Convention Center, where oversight is

under one General Manager, there is an option to combine these services into one agreement that covers both areas of service.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organization or administrative activity that will not result in direct or indirect changes in the environment.

### **FISCAL IMPACT**

There is no fiscal impact associated with the recommended action. If a subsequent action of the Council is necessary to implement the direction to staff, the fiscal impact will be discussed in the report.

For full disclosure, the FY 2018/19 Proposed Budget assumes a placeholder management fee of 2% of budgeted revenue or \$150,573, unless otherwise directed by the City Council. As this item was requested concurrent to establishing the FY 2018/19 Proposed Operating Budget, this amount will be reflected in the budget. Any changes would be captured in an Errata memo, presented to the City Council at the June 12, 2018 meeting, reflecting City Council action and budget balancing requirements, with proper action for the City Council’s approval/consideration.

### **COORDINATION**

This report has been coordinated with the Finance Department and the City Attorney’s Office.

### **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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **ALTERNATIVES**

1. Direct staff to bring forward an amendment to the Agreement for a management fee option as outlined in this report.
2. Discontinue paying a management fee.
3. Any other action the Council deems appropriate.

### **RECOMMENDATION**

Staff makes no recommendation on any of options for payment of a management fee, as all options presented are feasible; however, staff does make a recommendation that an option be selected so that if there is a desire to continue in this arrangement, there is a legitimate agreement that authorizes the City Manager to issue public funds for this purpose, which is not the case right now.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Convention Center Management Agreement

2. Convention Center Complex - Actuals FY 02/23 thru FY 16/17 & FY 17/18 Budget
3. Letter received from the Santa Clara Chamber of Commerce and Convention-Visitors Bureau