



To: MAYOR AND COUNCIL

Agenda Item #: VIII. C.

From: Scott H. Neal, City Manager

Action

Discussion

Date: April 22, 2014

Information

Subject: Agreement Between the City of Edina and Explore Edina to form and operate a Convention and Visitors Bureau

Action Requested:

Approve a motion to authorize and direct the Mayor and City Manager to execute an agreement by and between the City of Edina and Explore Edina to form and operate a convention and visitors bureau.

Information / Background:

If the City Council approves Ordinance 2014-4 creating a local lodging tax, the next step toward creation of a convention and visitors bureau (CVB), in accordance with Minnesota Statutes, 469.160, is to approve a formal agreement with the proposed CVB in order to provide it the financial resources generated by the City's new lodging tax.

The City Attorney has prepared the attached agreement which describes the relationship and mutual expectations of the City of Edina and Explore Edina, the name of the new non-profit CVB. The agreement describes how the City will participate in the management and provide funding to Explore Edina. The agreement also describes the basic services that Explore Edina plans to provide to the community.

I recommend the City Council approve this proposed agreement.

Attachments:

Agreement

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of April, 2014 by and between the **City of Edina**, a Minnesota municipal corporation, hereinafter referred to as the “City” and **Explore Edina**, a Minnesota non-profit corporation, hereinafter referred to as the “Bureau”.

WHEREAS, the City has imposed a tax on lodging to fund a convention and visitors bureau in accordance with Minnesota Statutes § 469.190; and

WHEREAS, the Bureau has the staff, facility and experience to carry out the objectives of promoting the City as a destination for all forms of tourism, including visitors, meetings, conferences and conventions.

NOW, THEREFORE, the parties agree as follows:

1. **Term**. The term of this Agreement shall commence on the _____ day of _____, 2014 and continue until cessation by mutual agreement or until withdrawal by one of the parties hereto in accordance with the following provisions:
 - A. The party withdrawing from this Agreement shall provide the other party written notice to that effect.
 - B. Withdrawal shall be effective three hundred sixty five (365) days after written notice of withdrawal is given.
 - C. Upon the effective date of the withdrawal the Bureau shall promptly remit to the City all proceeds held by the Bureau generated from the lodging tax imposed under City ordinance. The City must use the remitted proceeds in accordance with Minnesota Statutes 469.190.

2. **Services Rendered by Bureau**. The Bureau shall furnish the following services as funds allow and as specified in its budget:
 - A. Informational services in responding to inquiries about the City via U.S. Mail, computer (internet), telephone and personal contacts.
 - B. Provide planning, coordination and registration assistance to organizations, business and groups.

- C. Supply support material, including but not limited to name badges, maps, accommodations lists and information in general.
 - D. Prepare and present audiovisual presentations to groups to attract visitors, meetings, convention and special events to the City and the area.
 - E. Distribute brochures, maps and guides of the City/area to potential visitors and to meeting and event planners.
 - F. Provide representation at trade shows, conventions and exhibits to attract new visitors to the City.
 - G. Promote the City as a destination through statewide, regional, national and international advertising and marketing of the City and the area's hospitality industry and attractions.
 - H. Promote and support local festivals and special events.
3. **Charges.** Basic services provided pursuant to Paragraph Two (2) of this Agreement shall be without charge to the person or organization utilizing such services, unless authorized by contractual agreement or action of the Bureau's Board of Directors.
4. **Budget.** The Bureau shall submit its annual operating budget for review and approval by the City prior to September 1 of each year. Such budget shall detail specifically the uses to which monies received shall be spent to provide some or all of the services as described in Paragraph Two (2) of this Agreement.

It is understood between the parties that the actual revenues being generated under Paragraph Five (5) may vary from the amounts anticipated in the budget. For this reason, it is agreed that the budget may be modified without prior consent of the City, provided that any adjustments shall be made by a two-thirds (2/3) vote of the Bureau's Board of Directors.

Notwithstanding any other language to the contrary, the Bureau shall not expend any sums beyond its revenues.

5. **Funding.** On or near the 15th day of each month, the City shall remit to the Bureau, for funding of the Bureau, ninety-five percent (95%) of the lodging tax payments received by the City, less refunds, in the preceding month during the term of this Agreement.

6. **Verification of Expenditures.** The Bureau will provide the City a copy of the Bureau's audited annual financial statements, showing budget figures, properly itemized and verified by the Bureau's president. The chief financial officer of the City shall have the right to access the official financial books and organizational records of the Bureau at any time during normal business hours, provided forty-eight (48) hours notification to Bureau's president or treasurer, to audit any items of revenue or expenditure.
7. **Hold Harmless.** Any and all employees of the Bureau or any other persons, while engaged in the performance of any service required by the Bureau under this Agreement, shall not be considered employees of the City, and any or all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the Bureau, or its agents or employees or other persons while engaged in any of the services provided to be rendered herein, shall in no way be the obligation or the responsibility of the City. In connection therewith, the Bureau hereby agrees to indemnify, save and hold harmless, and defend the City and all of its officers, agents, and employees from any and all claims, demands, actions, or causes of actions of whatever nature or character arising out of or by reason of the execution or performance of the services provided for in this Agreement, except to the extent such claims or liability arise from the gross negligence or intentional misconduct of the City or its agents.
8. **Discrimination.** The Bureau, in providing services hereunder shall comply with the provisions of Minnesota Statute, Section 181.59 as the same may be amended from time to time. The Bureau shall not discriminate against any person or firm in any of its activities pursuant to Minnesota Statute, Section 181.59 which is incorporated into this Agreement as though set forth in its entirety.
9. **Insurance.** The Bureau shall carry insurance to cover its employees and agents while performing services pursuant to this Agreement. Such insurance shall provide comprehensive general liability and property damage coverage to the Bureau and its employees and agents in such amounts as will equal the applicable limits of liability to which the City may be held pursuant to state statute as the same may be amended from time to time. The Bureau shall also carry Workers' Compensation as required by Minnesota Statute, Section 176.182 and provide the City with proof of compliance with Section 176.182 to commencement of services thereunder.
10. **Board Members.** The Edina City Manager and the Edina Mayor must be members of the Board of Directors of the Edina Convention and Visitors Bureau.

11. **Laws.** The Bureau will comply with all applicable Federal, State, and local laws in the performance of its obligations hereunder.
12. **Advertisement.** All brochures, listings, or advertisements of specific lodging facilities shall include mention of all facilities paying the lodging tax imposed by the City.
13. **Integration.** This document is fully integrated, embodying the entire Agreement between the parties. Any amendment to this Agreement shall be in writing and executed in the same manner as the Agreement.
14. **Amendment.** This Operating Agreement may be amended by mutual consent of both parties.
15. **Audit.** The Bureau shall have an annual financial audit of the Bureau performed by an independent certified public accounting firm. The Bureau shall furnish a copy of this annual financial audit to the City at no cost to the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF EDINA

By: _____
James Hovland, Mayor

Dated: _____

By: _____
Scott Neal, City Manager

Dated: _____

EXPLORE EDINA

By: _____
Its Chair of the Board

Dated: _____

By: _____
Its _____

Dated: _____