

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: IA

Title:

**Seeking a motion to authorize City Administrator to Execute a License Agreement with the Greater St Charles Convention and Visitors Bureau (CVB)**

Presenter:

Chris Minick, Finance Director

Meeting: City Council

Date: January 17, 2017

Proposed Cost: \$-0-

Budgeted Amount: \$ N/A

Not Budgeted: **Executive Summary** *(if not budgeted please explain):*

Attached is a proposed license agreement between the City and the CVB to allow the CVB to utilize vacant office space within the City Hall Building. As part of the analysis of local groups promoting the City of St Charles, the benefits of collocating the Downtown St Charles Partnership, the CVB, and City Economic Development Staff were explored. It was decided that such a collocation made sense based on the enhanced inter-agency communication and cost savings that could result from such an arrangement. To that end, the CVB moved its offices into the City Hall facility in December of 2016.

Staff has prepared the attached licensing agreement to formalize the arrangement. The license agreement is based on the existing agreement with the DSCP and allows the use of the office space free of charge to the CVB.

The term of the proposed agreement with the CVB is through April 30, 2019, with options for up to two – two year renewals (4 additional years), which coincides with the termination of the separate existing license agreement with the DSCP. In addition, the license agreement allows for termination of the agreement with 60 days' notice and opportunity to cure in the event of a breach of a term of the agreement. The agreement also allows for either party to terminate the license agreement for any reason with 180 days' notice to the other party. There are also insurance and indemnification provisions that are contained within the agreement.

Representatives of the CVB have reviewed the proposed agreement, have found it acceptable, and have executed it. Additionally, the agreement has been reviewed by legal counsel from both parties. If the City Council approves of the proposed agreement, staff is requesting a motion authorizing the City Administrator to execute the License Agreement on the City's behalf.

**Attachments** *(please list):***Proposed License Agreement****Recommendation/Suggested Action** *(briefly explain):***Seeking a motion to authorize City Administrator to Execute a License Agreement with the Greater St Charles Convention and Visitors Bureau (CVB)**

## LICENSE AGREEMENT

THIS AGREEMENT, made and entered into this 17 day of January, 2017, by and between the City of St. Charles, Kane and DuPage Counties, Illinois, an Illinois municipal corporation (the "Licensor" or "City"), and the St Charles Convention and Visitors Bureau, an Illinois not-for-profit corporation (the "Licensee")

### WITNESSETH

WHEREAS, the Licensor is the owner of the St. Charles City Hall/Municipal Center located at 2 East Main Street, St. Charles, Illinois (the "Property"); and,

WHEREAS, there is certain vacant office space located on the Property that the Licensor does not currently utilize, as more specifically described on Exhibit "A" attached hereto and incorporated herein (the "Office Space"),

WHEREAS, the Licensee was organized for the purpose of promoting tourism within the City by providing marketing, sales, and servicing of conventions in the greater St Charles area with the goal of enhancing the economic, social, and cultural environment in the City; and,

WHEREAS, Licensee requires office space in order to conduct its activities; and,

WHEREAS, Licensor is desirous of granting a license to Licensee, and Licensee is desirous of being granted a license from Licensor, for Licensee to utilize the Office Space, pursuant to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the terms and conditions hereinafter contained, the sum of One Dollar (\$1.00), and other good and valuable considerations, the adequacy and sufficiency of which the parties hereto hereby acknowledge the parties hereto thereby agree as follows:

Section 1. Incorporation of Recitals. The preambles set forth hereinabove are incorporated herein as substantive provisions of this Agreement as if fully set out in this Section 1.

Section 2. Grant. Licensor agrees to grant, and does hereby grant, to Licensee, a license to use the Office Space for the term of this Agreement for the purpose of conducting its activities as contemplated by its Articles of Incorporation.

Section 3. Exclusive Grant. The privilege granted herein is exclusive; provided, however, that Licensor reserves the right at any time to enter upon the Office Space.

Section 4. Liens. Licensee, its officers, agents, contractors, volunteers and/or employees, shall not suffer to permit any mechanic's lien, judgment lien or other lien of any nature whatsoever to attach or be against the Property, the Office Space, or any portion thereof. Should any such lien be filed, the Licensor shall have the right to contest same.

**Section 5. Condition and Upkeep; Use.** Licensee has examined and knows the condition of the Office Space and has received the same in good order and repair, and acknowledges that no representations as to the condition and repair thereof have been made by Licensor prior to all the execution of this Agreement that are not herein expressed; Licensee will keep the Office Space in good repair, normal wear and tear excepted; and upon the termination of this Agreement, in any way, will yield up the Office Space to Licensor, in good condition and repair, ordinary wear excepted, and will deliver the keys therefor at the Property.

**Section 6. Access.** Licensee, its officers contractors, agents, volunteers and/or employees, shall at all times have the right of access to the Office Space and such other areas of the Property as are necessary to access the Office Space. The Licensee, its officers, contractors, agents, volunteers and/or employees shall also have access to other areas of the Property as follows: (a) conference and meeting rooms shall be available during normal business hours provided that said rooms are not in use by, or needed by, the City, and (b) use of conference and meeting rooms during non-business hours shall be available on the same basis as the City makes such rooms available to other non-City users, by scheduling in advance and pursuant to the City's policy.

**Section 7. Assignment.** Licensee shall not assign or otherwise transfer its right in whole or in part under this Agreement without the express written consent of Licensor.

**Section 8. Insurance.** Licensee shall procure and maintain at its sole and exclusive expense, comprehensive personal injury, workman's compensation and property damage insurance in such amounts as Licensee deems necessary and Licensor deems satisfactory to adequately cover all operation under the exercise of the privileges herein granted. Evidence of insurance shall be provided by Licensee to Licensor.

**Section 9. Hold Harmless and Indemnification.** Licensee hereby indemnifies, releases and holds Licensor harmless, and agrees to defend Licensor from any and all liability, causes of action, suits, damages or demands of whatever nature arising out of the conduct of Licensee, its officers, contractors, agents, volunteers and /or employees under the exercise of the privileges herein granted. This indemnity is intended as a full and complete general indemnity and shall include Licensee's responsibility for any attorney's fees incurred by Licensor in defense of any claims or actions brought by third parties against Licensor as a result of the privileges granted to Licensee herein.

Licensor hereby indemnifies, releases and holds Licensee harmless, and agrees to defend Licensee from any and all liability, causes of action, suits, damages or demands of whatever nature arising out of the conduct of Licensor, its officers, agents and/or employees regarding the License Area. This indemnity is intended as a full and complete general indemnity and shall include Licensor's responsibility for any attorney's fees incurred by Licensee in defense of any claims or actions brought by third parties against Licensee as a result of the privileges granted to Licensor herein.

Section 10. Financial Responsibility/No Third-Party Beneficiaries. Licensor shall have no financial responsibility or obligation to Licensee or any third party as a result of Licensor's granting the privileges described herein to Licensee. This Agreement creates no rights, title or interest in any person or entity whatsoever (whether under a third party beneficiary theory or otherwise) other than the Licensee and the Licensor.

Section 11. No Lease or Easement. Licensee expressly acknowledges that nothing herein is intended to create a corporal or possessory interest of Licensee and, accordingly, this Agreement shall not be construed as a lease, easement, or any other interest running with the land. Neither this Agreement nor any summary or memorandum thereof shall be recorded with any public authority.

Section 12. Relationship of the Parties. Under no circumstances shall this Agreement be construed to create a relationship of agency, partnership, joint venture, or employment between the Licensor and the Licensee.

Section 13. Term. Unless otherwise terminated pursuant to Section 14, this Agreement shall remain in effect until April 30, 2019; provided, however, upon mutual agreement of the parties hereto, this Agreement may be renewed for up to two (2) consecutive two-year periods.

Section 14. Termination. If the Licensee breaches any of the provisions of this Agreement, or abandons or vacates the Office Space, the Licensor may declare this Agreement terminated upon sixty (60) days' written notice to the Licensee. Licensee shall be entitled to sixty (60) business days following receipt of said notice to cure the alleged breach. Licensee's cure of the alleged breach shall render any Licensor notice or declaration of termination related to the alleged breach invalid and not enforceable against Licensee. In addition, either party may, for any reason and in its sole discretion, declare this Agreement terminated upon one hundred eighty (180) days' written notice to the other party.

Should the agreement or any renewal period terminate and not be renewed in accordance with Section 13 of the Agreement, the Licensor may require the Licensee to vacate the Office Space and return the keys to the Office Space upon sixty (60) days' written notice to the Licensee.

Section 15. Damage and Destruction. Licensor and its officers, contractors, agents and/or employees shall not be liable or responsible to Licensee for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, or court order, or for any damage or inconvenience which may arise from this Agreement.

Licensor and its officers, contractors, agents and/or employees shall not be liable for any damage occasioned by failure to keep the Office Space in good repair, nor for any damage done or occasioned by or from plumbing, electricity, gas, water, sprinkler, steam or other pipes or sewerage of the bursting, leaking or running of any pipes, tank or plumbing fixtures, in, above, upon or about Property or Office Space, nor for any damage occasioned by water, snow or ice being upon or coming through the roof, windows or otherwise.

Section 16. Miscellaneous. This Agreement sets forth the entire understanding of the parties, and may only be amended, modified or terminated by a written instrument signed by the parties unless herein otherwise provided. Either party's waiver of any breach or failure to enforce any of the terms or conditions of this Agreement, at any time, shall not in any way affect, limit or waive that party's right thereafter to enforce or compel strict compliance with every term and condition hereof.

Section 17. Effective Date. This Agreement shall become effective upon execution by both parties hereto.

Section 18. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois.

Section 19. Notices. All notices hereunder shall be in writing and must be served either personally or be registered or certified mail to:

A. Licensor at:

St Charles Convention and Visitors Bureau  
2 E. Main Street  
St. Charles, Illinois 60174  
Attn: Executive Director

B. Licensee at:

City of St. Charles  
2 E. Main Street  
St. Charles, Illinois 60174  
Attn: City Administrator

C. To such other person or place with either party hereto by its written notice shall designate for notice to it from the other party hereto.

Section 20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first above written.

CITY OF ST. CHARLES

ATTEST:

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Administrator

ST CHARLES CONVENTION AND VISITORS BUREAU

By: *[Signature]* 04/04/17

ATTEST:

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