

9:00 am  
5/12/2011

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO AND FRESNO  
CONVENTION & VISITORS BUREAU

(Fresno-Clovis Tourism Business Improvement District)

This Memorandum of Understanding ("MOU") is entered on May 10, 2011 ("Effective Date") between the CITY OF FRESNO, a municipal corporation of the State of California ("City"), and the FRESNO CONVENTION & VISITORS BUREAU, a nonprofit corporation ("Organization").

WHEREAS, on December 16, 2010, the City Council established the Fresno-Clovis Tourism Business Improvement District ("FCTBID") pursuant to Resolution No. 2010-295, which is incorporated herein by reference; and

WHEREAS, Resolution No. 2010-295 adopted the Fresno-Clovis Tourism Business Improvement District Management District Plan ("Management Plan"), which is incorporated herein by reference, and which indicates that the City of Fresno will contract with the Organization to serve as the owners' association for the FCTBID; and

WHEREAS, the parties desire that the Organization act as "Owner's Association" for the FCTBID, upon the terms and conditions herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and sufficient consideration, the City and Organization agree as follows:

AGREEMENT

1. The City shall pay to the Organization in trust all FCTBID assessment funds, including penalties and interest, actually received by the City, less: (i) a one percent (1%) charge for the cost of administration, and (ii) expenses incurred by the City as a result of efforts to collect delinquent FCTBID assessments, if the City elects to undertake such efforts.
2. The Organization shall serve as the FCTBID owners' association and shall implement the Management Plan. The Organization shall administer FCTBID funds in compliance with the annual service plan budget contained in the Management Plan ("Budget"), which is incorporated herein. The Organization shall allocate funds received pursuant to this Agreement according to the Budget as they are received in the proportions stated in the Budget. By way of example, if the FCVB receives a \$100,000 payment pursuant to this Agreement, the FCVB shall allocate no more than 10% of the payment (\$10,000) to Administration costs, as provided in the Budget.
3. The Organization, unless otherwise instructed by the City in writing, shall be responsible for collection of all delinquent FCTBID assessments and related penalties and interest ("Collection Efforts") pursuant to Streets & Highways Code Section 36631, and consistent with this Agreement, provided that litigation in the name of the City shall not be commenced without the express written consent of the City. The City may, but is not obligated to, engage in Collection Efforts at its discretion.

4. All FCTBID assessments and funds in the possession/control of the Organization are the property of the FCTBID and shall be held in trust by the Organization solely for the benefit of the FCTBID.

5. This MOU shall expire thirty (30) days following the Effective Date. All FCTBID assessments and funds in the possession/control of the Organization upon the termination of this MOU shall be immediately returned to the City, to be held on behalf of the FCTBID, unless otherwise provided by separate agreement of the parties.

6. The Fresno City Manager and the Fresno City Attorney are hereby authorized and directed within 30 days to negotiate and enter into a full long-term agreement with the Organization, containing the material provisions of this MOU and covering the remainder of the FCTBID term, which expires December 31, 2015.

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first-above written.

CITY OF FRESNO,  
a municipal corporation

By: Mark Acott  
Title: City Manager

FRESNO CONVENTION & VISITORS  
BUREAU, a nonprofit corporation

By: Laura Forstedt  
Title: CEO/President

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

REBECCA E. KLISCH

City Clerk

By: Sherro G. Badetscher  
Deputy 5/26/11

APPROVED AS TO FORM:

JAMES C. SANCHEZ

City Attorney

By: Mark Gleason  
Mark Gleason, Deputy

AGENDA ITEM NO. 9:00am

COUNCIL MEETING 5/12/2011

APPROVED BY \_\_\_\_\_

May 12, 2011

DEPARTMENT DIRECTOR \_\_\_\_\_

CITY MANAGER 

**FROM:** MARK SCOTT, City Manager

**BY:** NICOLE R. ZIEBA, Deputy City Manager 

Presented to City Council

Date 5-12-11

Disposition For approval

**SUBJECT:** APPROVE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FRESNO AND THE FRESNO-CLOVIS CONVENTION AND VISITOR'S BUREAU FOR DISTRIBUTION OF TOURISM BUSINESS IMPROVEMENT DISTRICT FUNDS

### RECOMMENDATION

Staff recommends approval of the Memorandum of Understanding with the Fresno-Clovis Convention and Visitor's Bureau (CVB), which will allow the City to legally disburse Tourism Business Improvement District (TBID) funds collected from January through April, 2011, to the CVB.

### EXECUTIVE SUMMARY

The City of Fresno has been collecting TBID funds from hoteliers within the cities of Fresno and Clovis since January, 2011. The CVB has requested that the City provide them all funds collected. Under the approved TBID Management Plan, the City can only disburse funds once a formal contract between the City and the CVB has been executed. This contract has not yet been finalized. The CVB is in immediate need of these funds and, therefore, staff has negotiated a Memorandum of Understanding between the two agencies that will allow the City to legally disburse the funds to the CVB.

### BACKGROUND

On December 16, 2010, the TBID was formed, pursuant to City Council Resolution No. 2010-295. Through this District, hoteliers within the cities of Fresno and Clovis are required to pay 1% of gross revenues to the TBID, and this money funds the activities of the CVB. Resolution No. 2010-295 also adopted the TBID's Management Plan, which states that the City of Fresno shall collect the revenue from hoteliers and disburse the funds, under contract, to the TBID's "Owners' Association", which is the CVB. The CVB is in immediate need of these funds. Since a formal contract has not yet been established between the City of Fresno and the CVB, a temporary Memorandum of Understanding is necessary in order to disburse the TBID funds collected in the first quarter of 2011. The MOU specifically states that it expires in 30 days. Within that timeframe, a full contract will be developed between the City and the CVB and will be returned to the City Council for approval.

### FISCAL IMPACT

There is no fiscal impact to the City of Fresno. The TBID funds are collected from Fresno and Clovis hoteliers and held in trust by the City of Fresno until they are disbursed to the CVB.

Attachment: Memorandum of Understanding between the City of Fresno and the Fresno-Clovis Convention and Visitor's Bureau

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CITY OF FRESNO,  
a municipal corporation

FRESNO CONVENTION & VISITORS  
BUREAU, a nonprofit corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:  
REBECCA E. KLISCH  
City Clerk  
By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
JAMES C. SANCHEZ  
City Attorney  
By: \_\_\_\_\_  
Deputy