

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: January 13, 2015		DATE SUBMITTED: December 23, 2014	
DEPARTMENT OF ORIGIN: CMO		SUBMITTED BY: Joey Dunn	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<p>AGENDA ITEM DESCRIPTION: On December 2, 2014, Council directed that an agenda item to consider funding for the CVB in amount of \$336,000 be posted. However, since the CVB budget has not been amended to reflect an amount to be funded by the City of Bryan greater than the CVB request of \$238,440 and the CVB has declined the additional funding over and above their request of \$238,440, the Council cannot legally consider an amount greater than \$238,440; however, the Council may consider an amount less than \$238,440. The recommended and requested funding amount of \$238,440 reflects an increase over the prior year funding by \$53,590. Consider adoption of a resolution of the City Council of the City of Bryan, Texas, approving a budget for the fiscal year beginning October 1, 2014, and ending September 30, 2015, inclusive, for the Bryan-College Station Convention and Visitors Bureau (CVB) with total expenditures of \$1,904,500.25 and revenues in the combined total amount of \$1,904,500.25; and authorizing the Mayor to sign a funding agreement with the CVB to provide funding for Fiscal Year 2015 in the amount of \$238,440 (or a lesser amount as designated by Council).</p>			
<p>SUMMARY STATEMENT: The City of Bryan adopted FY2015 budget includes \$184,850.00 for the operational support of the CVB, which was the same amount as Fiscal Year 2014 (FY2014). The CVB funding request for FY2015 is \$238,440, which represents an increase of \$53,590 over FY2014.</p> <p>On December 2, 2014, the City Council voted 4-3 to postpone consideration of this funding agreement to the January 13, 2015, City Council meeting, and to post the agenda item with a funding amount of \$336,000 from the City of Bryan to the CVB, representing 28 percent of Bryan's projected hotel occupancy tax (HOT) collections anticipated in FY2015.</p> <p>In response to the City Council's action on December 2nd, city staff contacted CVB Executive Director Shannon Overby and requested the CVB submit a revised annual budget incorporating the proposed additional HOT funding, in order for the City Council to consider approval of a funding agreement in the amount of \$336,000.00 at the January 13, 2015 city council meeting. Ms. Overby notified staff the CVB declined consideration of additional funding beyond the \$238,440 requested by the CVB at this time, and asked the City Council consider at its January 13, 2015 meeting, the CVB's original funding request of \$238,440 (refer to attached email communication).</p> <p>As indicated in the CVB's original FY 2015 funding proposal, the additional requested \$53,590 would be utilized to promote the availability of meeting space and other amenities as provided in the Texas A&M University Facilities Agreement. With the addition of Texas A&M facilities, more opportunities are available for larger, more lucrative groups to visit the community for meetings and events. These new markets include religious, medical, corporate and additional sports events. Additional funding will allow BCSCVB staff to attend new tradeshow and assist with existing events, festivals and HOT grant coordination. A more specific breakdown of funding is outlined in the attached funding request summary.</p>			

The City Council is required to approve the annual budget of the CVB prior to approving a funding agreement delegating to the CVB the management or supervision of hotel tax funded programs. Attached is a resolution approving the CVB's FY2015 budget. The CVB's FY2015 budgeted expenses are \$1,904,500.25 and estimated revenues are \$1,904,500.25. **The CVB's FY2015 budget submitted to the City of Bryan reflects \$238,440 from the City of Bryan, not the amount of \$336,000. Therefore, in order for the City Council to consider a funding agreement with the CVB utilizing HOT collections in an amount greater than \$238,440, the CVB will be required to bring a revised annual budget back to City Council for approval by resolution.**

Below is a summary of CVB funding as a percentage of HOT funds collected by each city over the past ten years (*Projected **Requested ***Approved):

<u>Year</u>	<u>Bryan HOT Collected:</u>	<u>Bryan HOT funds to CVB:</u>	<u>% of Bryan HOT Collected:</u>	<u>CS HOT Collected:</u>	<u>CS HOT funds to CVB:</u>	<u>% of CS HOT Collected</u>
2004	\$256,830	\$105,000	41%	\$2,331,910	\$915,204	39%
2005	\$265,790	\$100,000	38%	\$2,656,080	\$960,000	36%
2006	\$258,230	\$100,000	39%	\$3,042,130	\$960,000	32%
2007	\$285,600	\$110,000	39%	\$3,623,690	\$1,060,000	29%
2008	\$336,910	\$110,000	33%	\$4,161,150	\$1,060,000	25%
2009	\$380,310	\$110,000	29%	\$3,763,690	\$1,060,000	28%
2010	\$411,190	\$125,000	30%	\$3,416,685	\$1,032,000	30%
2011	\$454,217	\$125,000	28%	\$3,558,042	\$1,032,000	29%
2012	\$504,078	\$125,000	25%	\$3,643,454	\$1,000,000	27%
2013	\$723,065	\$133,400	18%	\$4,393,867	\$1,127,153	26%
2014	\$1,003,000*	\$184,850	18%	\$4,489,137*	\$1,425,653	32%
2015	\$1,200,000*	\$184,850	15%	\$4,668,000*	\$1,321,294**	28%
2015	\$1,200,000*	\$238,440**	20%	\$4,668,000*	\$1,321,294***	28%

As highlighted above, the requested amount of \$238,440 represents 20 percent of the City of Bryan's total HOT funds estimated to be collected in FY2015. College Station's approved amount of \$1,321,294 represents 28 percent of College Station's total HOT funds estimated to be collected in FY15. Twenty-eight percent (28%) of Bryan's estimated FY2015 HOT fund collection would be \$336,000.

Again, the FY2015 budget submitted by the CVB to the City of Bryan reflects \$238,440 from the City of Bryan, not the higher amount of \$336,000. In order for the City Council to consider approval of a funding agreement with the CVB utilizing HOT collections in an amount greater than \$238,440, the CVB will be required to bring a revised budget back to City Council for adoption by resolution.

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends approving the funding amount of \$238,440 as requested by the CVB, which allows the City to proceed with making the first quarterly payment that was originally scheduled for December 15, 2014. As indicated in the December 2nd Council Action Form, staff contends the CVB has been successful in promoting various events and activities, and those events and activities have contributed to growth in sales tax and HOT funds for both Bryan and College Station. The successful promotion of events was the justification offered for the proposed \$53,590 increase.

Exactly how much of the growth in sales and HOT tax is directly attributable to the CVB has not been determined, as there are many factors that have contributed to the growth in these funds, including the oil and gas business, promotion efforts of the City of Bryan Communications/Marketing Department, other organizations, decisions made by Texas A&M and other major employers, the construction of new hotels, and other factors. A full economic impact study could be commissioned to address the specific impact of the CVB, as well as an analysis of other ways to use HOT funds to achieve the highest return on investment directly back to the City of Bryan. To conduct a full economic impact study at this time would require additional funding and significant time beyond the current period of this funding decision.

If the City Council wishes to consider approval of an amount greater than \$238,440, the CVB will be required to bring a revised budget back to City Council for approval prior to consideration of an increased funding agreement. Following budget approval, City Council will also need to take additional action to amend Bryan's adopted FY2015 budget and adjust the CVB appropriation of Bryan HOT funds from \$184,850 to the revised amount.

OPTIONS (In Suggested Order of Staff Preference):

1. Approve proposed resolution and funding agreement in the amount of \$238,440, as requested by CVB. This action will allow immediate payment of the first quarter amount on January 15, 2015, and it will also require a future City of Bryan budget amendment.
2. Postpone action and provide further direction to staff to again request CVB to submit a revised CVB FY15 budget reflecting a greater amount up to \$336,000. This action will require future City Council consideration which will further delay the first quarter payment, and a future City of Bryan budget amendment.
3. Do not approve the proposed resolution or funding agreement and provide direction to staff.

ATTACHMENTS: (pdf documents combined into one attachment)

1. Email from Shannon Overby dated 12-31-14 (separate pdf document)
2. Proposed resolution approving the CVB Fiscal Year 2014-2015 budget
3. Exhibit "A" CVB FY 2015 Budget (separate pdf document)
4. Exhibit "B" CVB Funding Agreement
5. Original funding request letter from Shannon Overby (separate pdf document)

FUNDING SOURCE: FY15 Hotel/Motel Tax Fund

- If the originally requested \$238,440 amount is approved by City Council, the City of Bryan will proceed with processing the first quarterly payment on January 15, 2015 from the FY15 Hotel/Motel Fund. Additional action will be needed at a future meeting to amend Bryan's adopted FY2015 Budget and adjust the CVB appropriation of Bryan HOT funds from \$184,850 to \$238,440.
- If City Council wishes to approve an amount greater than the requested \$238,440 and less than or equal to \$336,000, the CVB will be required to submit a revised budget reflecting the greater amount, and additional action will be needed at a future Council meeting to approve both the CVB's revised budget, as well as an amendment to the City of Bryan FY2015 Budget.

APPROVALS: Hugh R. Walker, 12/29/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 12-30-2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF BRYAN, TEXAS APPROVING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2014, AND ENDING SEPTEMBER 30, 2015, INCLUSIVE, FOR THE BRYAN-COLLEGE STATION CONVENTION AND VISITOR'S BUREAU (CVB) WITH TOTAL EXPENDITURES OF \$1,904,500.25 AND REVENUES IN THE COMBINED TOTAL AMOUNT OF \$1,904,500.25; AND AUTHORIZING THE MAYOR TO SIGN A FUNDING AGREEMENT WITH THE CVB TO PROVIDE FUNDING FOR FISCAL YEAR 2015 IN THE AMOUNT OF \$238,440 (OR LESS AS DIRECTED BY COUNCIL); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan (CITY) and the BRYAN-COLLEGE STATION CONVENTIONS AND VISITORS BUREAU (CVB) have partnered for many years; and

WHEREAS, the CVB provides support for tourism in the City of Bryan and the region; and

WHEREAS, the CITY is required to approve the budget of the CVB;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, THAT:

1.

The budget for the fiscal year beginning October 1, 2014, and ending September 30, 2015, with combined expenditures in the sum of **\$1,904,500.25** and combined revenues in the sum of **\$1,904,500.25** be approved as indicated in the accompanying "Exhibit A" BRYAN-COLLEGE STATION CVB FISCAL YEAR 2014-2015 Budget.

2.

Expenditures shall conform to the provisions of Chapter 351.101 of the Texas Revised Civil Statutes.

3.

The Mayor is authorized to sign the FUNDING AGREEMENT between the City of Bryan and the CVB, attached hereto as Exhibit "B", providing for funding in the amount of \$238,440.00 (or less as directed by Council).

This Resolution shall go into effect January 13, 2015.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, at a meeting held on the 13th day of January, 2015.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

Exhibit "B"

FUNDING AGREEMENT
BCSCVB FY2015

This Agreement is by and between the CITY OF BRYAN, a Texas Home Rule Municipal Corporation (hereinafter referred to as "BRYAN"), and the BRYAN-COLLEGE STATION CONVENTION AND VISITORS BUREAU, a Non-Profit Corporation organized and existing under the laws of the State of Texas (hereinafter referred to as "CVB").

WHEREAS, pursuant to its discretionary powers authorized under V.T.C.A. Tax Code, Chapter 351, as amended, BRYAN adopted an ordinance imposing a hotel/motel occupancy tax upon the occupants of hotels/motels within its BRYAN limits in conformity with the laws of the State of Texas; and

WHEREAS, pursuant to V.T.C.A. Tax Code, Chapter 351, as amended, BRYAN may use the proceeds of the hotel/motel occupancy tax for the promotion of tourism and the hotel and convention industry; and

WHEREAS, BRYAN has determined the promotion of tourism and the hotel and convention industry can best be accomplished by CVB through attracting, promoting, developing, presenting, producing and encouraging visitors and conventions to come to the community;

NOW, THEREFORE, the parties agree as follows:

I.

BRYAN hereby grants \$238,440.00 to CVB from the funds actually collected and received by BRYAN from the hotel/motel occupancy tax. Payment shall be made as follows:

<u>Payment Number</u>	<u>Amount</u>	<u>Payment Date</u>
1	\$59,610.00	January 15, 2015
2	\$59,610.00	February 15, 2015
3	\$59,610.00	May 15, 2015
4	\$59,610.00	August 15, 2015

These funds are in consideration for CVB's promotion of tourism and the convention and hotel industry through attracting, promoting, developing, presenting, producing and encouraging visitor and conventions to come to the community. The CVB shall also provide for the promotion of sport tourism and the hotel industry through attracting, promoting, developing, presenting, producing and encouraging sport visitor and sport events to come to the community. CVB is an independent contractor and shall be responsible for the services performed under this Agreement. CVB shall have ultimate control over the implementation of this Agreement. CVB shall give personal attention to the faithful performance and completion of this Agreement. It is understood and agreed to by the parties that the services contemplated by this Agreement shall be provided through a salaried staff and qualified volunteers. Adequate supervision is essential to the proper performance of the work.

BRYAN agrees to cooperate fully with the CVB in the performance of this Agreement by honoring any reasonable request it may make for assistance, including but not limited to staff support, providing information or use of a facility owned by BRYAN, in order to market and promote BRYAN.

Payment of each installment by BRYAN shall be contingent upon CVB's fulfillment of its reporting requirements set forth in Section II of this Agreement. BRYAN agrees to provide prompt and specific objections to the reports filed by CVB as required by Section II, if BRYAN determines such reports do not fulfill the CVB's reporting requirements. If CVB does not comply with any agreement or representation made in this contract, BRYAN may provide written notice to the CVB stating specifically the deficiencies in CVB's performance and/or CVB's noncompliance with the terms of this contract. CVB shall have sixty (60) days within which to cure the alleged deficiencies and/or noncompliance to BRYAN's satisfaction. If such deficiencies are not cured within sixty (60) days, BRYAN may terminate this contract and discontinue funding.

II.

CVB shall prepare and submit (i) a proposed annual budget for the following year and (ii) proposed service levels and performance measures to BRYAN for review not later than May 31st of each year. It is understood and agreed by and between the parties that, upon budget approval by the municipality and payment of budgeted funds, the statute creates a fiduciary duty in CVB with respect to the expenditure of revenue provided.

CVB shall provide to the Bryan City Council an annual report of the activities that it has conducted to benefit BRYAN and an annual audited financial statement. At the time the budget is due, CVB shall make a presentation of their near to date activities and accomplishments and also present information with regard to proposed projects to BRYAN's Council.

On a quarterly basis, CVB shall submit to BRYAN an Activity Report of its activities and accomplishments for that particular quarter. The Activity Report shall include (i) a narrative summary of activities, (ii) a summary of expenditures to date and (iii) reporting on approved service levels and performance indicators. This report shall be received by the Chief Financial Officer or designee not later than the twentieth (20th) business day following the end of each calendar quarter. Quarterly reports shall be sent to:

Chief Financial Officer
Fiscal Services
BRYAN of Bryan
P.O. Box 1000
Bryan, TX 77805

CVB shall maintain a complete and accurate set of financial records of each expenditure of the funds and upon request of BRYAN shall make the records available for inspection and review during normal business hours. CVB shall maintain such records, accounts, reports, files or other documents for a minimum of five (5) years after the expiration of this agreement. City's right to access CVB's files shall continue during this 5 year period and for as long as the records are retained by Agency.

It is further agreed by CVB that it shall maintain said funds in a separate operating account established for that purpose and that it shall not commingle those funds with any other monies or maintain those funds in any other account.

It is understood and agreed by and between the parties that hotel/motel occupancy funds may be spent by CVB for day-to-day operations, including supplies, salaries, office rental, travel expenses, and other administrative costs, if directly related to the purposes of this Agreement.

III.

This Agreement is effective for the 2014-2015 budget year. The Agreement is subject to annual renewal on the anniversary date of execution. The Bryan City Council shall review the Agreement annually following the budget adoption and, if necessary, amend the value of payments to be made to CVB. The payment obligations of this Agreement are contingent upon the annual appropriation of funds by BRYAN for this purpose.

IV.

CVB and BRYAN agree to perform their duties under this agreement in compliance with all federal, state and local laws.

V.

CVB agrees to, and shall indemnify and hold harmless BRYAN, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by CVB under this Agreement, regardless of whether such injuries, death or damages are causes in whole or in part by the negligence of BRYAN.

CVB assumes all responsibility for the work to be performed hereunder, and hereby releases, relinquishes and discharges BRYAN, its officers, agents and employees, from all claims, demands, and causes of action of every kind and character including the costs of defense thereof, for any injury to, including death of, person (whether they be third persons, agents, or employees of either of the parties hereto) and any loss of or damage to property (whether the same be that either of the parties hereto or of third parties) caused by or alleged to be caused, arising out of, or in connection with CVB's work to be performed hereunder whether or not said claims, demands and causes of action in whole or in part are covered by insurance.

VI.

All notices shall be deemed received when sent certified mail, return receipt requested, to the parties at the addresses designated below or the addresses which they may from time to time designate in the same manner.

CITY OF BRYAN
P.O. Box 1000
Bryan, Texas 77805-1000

BRYAN-COLLEGE STATION CONVENTION AND VISITORS BUREAU
1101 University- Drive East
College Station, Texas 77840

VII.

No part of this Agreement may be assigned without the prior written approval of BRYAN. No verbal agreement or conversation with any officer, agent or employee of BRYAN, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder. The Effective Date shall be the date this Agreement is executed.

VIII.

The parties hereto covenant and agree to execute all such further instruments and take such further action as may be reasonably required by either party to fully effectuate the terms and provisions of this Agreement and the transactions contemplated herein.

Executed this _____ day of _____, 2015.

BRYAN-COLLEGE STATION CONVENTION AND VISITORS BUREAU

Shannon Overby,
President and Chief Executive Officer

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED:

APPROVED AS TO FORM:

Kean Register, City Manager

Janis K. Hampton, City Attorney