

// A special meeting of the Council of the City of Lynchburg, recessed from March 18, was held on the 25th day of March, 2008, at 1:00 P.M., Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding the FY2009 Budget along with several other items. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Seiffert, Foster

6

Absent: Johnson

1

// Council Member Johnson joined the meeting at 1:35 p.m.

// City Manager Kimball Payne and Deputy City Manager Bonnie Svrcek provided an overview regarding the remaining budgets within the following categories: External Service Providers, Transfers/Non-Departmental Providers, Fleet, Airport, and GLTC. Municipal staff was present to respond to questions regarding their individual budgets. At the request of Council Member Garrett, Dr. Peter Houck provided information and responded to questions regarding the funding request from the Johnson Health Center. Dr. Houck stated that during the past few years, the Johnson Health Center has assumed services that were previously provided by the Lynchburg Health Department and that those increases are one of the reasons for this year's funding request. In response to Council questioning, City Manager Kimball Payne stated that funding to the Health Department is mandated by the State but that he would explore what options Council might have regarding allocating a portion of that funding to the Johnson Health Center. Council Member Garrett commented that the Johnson Health Center is one of the largest employers in the Fifth Street Corridor. Council Members also added items to the "list" for further discussion during balancing of the FY2009 Budget.

// City Manager Kimball Payne presented to Council the draft contract agreement between the City and the Lynchburg Regional Chamber of Commerce (LRCC) regarding the operation of the tourism program and the Lynchburg Visitors Center. Mr. Payne explained that since City Council authorized a new contract with the Lynchburg Regional Chamber of Commerce for the management and operation of the tourism program, a job description for the Director of Tourism has been developed, the position advertised, and a draft contract developed for review and comment. Mr. Payne went on to say that the goal is to finalize the agreement for final approval by City Council and the LRCC Board by May 1. Mr. Payne noted that the draft contract addresses issues that were identified in previous discussions regarding the tourism program, i.e., mutual responsibilities, the amount of funding provided, financial reporting, accountability, transparency, the establishment of a grievance procedure, the makeup and responsibilities of an advisory or policy board, benchmarks/performance measures, and definition of how funding in support of the Chamber's administration and overhead is determined. Mr. Payne also noted that under the new contract, up to 73% of the Transient Occupancy Tax will be provided for the tourism program. Following Council review and questioning, City Manager Payne stated that the draft agreement would be finalized and presented to City Council in April for final adoption.

// Parks and Recreation Director Kay Frazier presented an amendment of the Special Events Policy with respect to City sponsored events. Ms. Frazier stated that the Special Events Policy establishes a grant program to support a certain number of events each year and also identifies certain events that have proven to be successful as City sponsored events. Ms. Frazier explained that the policy requires that City

Council designate City sponsored events, and that the amendment proposes the deletion of two events that are no longer held, i.e., Lynchburg Symphony Pops Concert and National Trails Day, and the addition of two events, i.e., Riverflicks and Firecracker Invitational Swim Meet. Ms. Frazier went on to say that this is the first change that has been made since the policy was approved by Council in October 2002. Ms. Frazier also noted that the proposed amendment allows for City sponsorship in the fourth year of an event's history rather than the fifth, and that experience has shown that three years of success is adequate to demonstrate the appropriateness of City sponsorship. Following discussion and on motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote amended the Special Events Policy to delete City sponsorship of two events no longer held, i.e., Lynchburg Symphony Pops Concert and National Trails Day, and the addition of two events, i.e., Riverflicks and Firecracker Invitational Swim Meet:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

7

Noes:

0

// City Manager Kimball Payne stated that he was asked by City Council to provide background information regarding the School Board Volunteer Selection Process, briefly outlined below:

- Several years ago City Council agreed to hold private, closed session, interviews with selected volunteers for positions on the School Board.
- Prior to that time, some or all Council members, singly or in groups of two, had conducted private interviews with some or all volunteers for the School Board.
- Concerns arose that the process was inefficient in that individual volunteers were subjected to multiple interviews, there were scheduling challenges, and information was not equally available to all Council members at the same time.
- Other issues have arisen since Council has been interviewing selected volunteers in closed session, primarily around the transparency of the process, the public's right to know or interest in knowing more about the volunteers, and whether or not a more open process would have an impact on the number or quality of volunteers.

Mr. Payne went on to say that the information also contained three options for Council consideration:

1. Council, individually or in groups of two, conducts private interviews with some or all volunteers.
2. Council conducts private interviews, as a body in closed session, with selected volunteers.
3. Council conducts public interviews, as a body in open session, with all or selected volunteers.

Mr. Payne also noted that in order to facilitate Council's discussion of this matter, excerpts from the State and City Code regarding School Board appointments have been provided along with a list of questions and issues that Council might want to discuss. Council Member Helgeson stated that he had proposed Option 3 a number of months ago and since he believes that a more open process would be better, made a motion, seconded by Council Member Garrett, to approve Option 3. Council Members discussed at length the advantages and disadvantages of all three options, focusing mainly on two values to consider in selecting the best method to attract, interview and select members of the Lynchburg School Board, i.e., (1) to provide open and transparent government, recognizing that the citizens of Lynchburg have a right to know how and why Council Members, as elected officials, make their decisions, and (2) to attract the most

qualified members for the School Board and to avoid the politicization of the School Board and the selection process of School Board Members. Council Member Johnson stated that the current process is better than what was done when he first came on City Council, that he did not see any benefit in changing the current process, and made a substitute motion, seconded by Vice Mayor Dodson, to approve Option 2.

Some Council Members voiced support of Option 2, while others voiced support of Option 3. Council Member Gillette offered several scenarios suggesting that a hybrid approach might be more acceptable. Council Member Johnson stated that he would like to withdraw his substitute motion in order to consider further a hybrid approach. Vice Mayor Dodson withdrew the second to the substitute motion. Further discussion ensued, whereby Council Member Helgeson raised the question of taking action on the motion that was on the floor. Council Member Johnson stated that he would like to make a substitute motion to postpone this item for further discussion. Vice Mayor Dodson seconded the substitute motion. Council Member Helgeson raised a point of order regarding Council Member Johnson's ability to withdraw one substitute motion and then make a different substitute motion. City Attorney Walter Erwin explained that a substitute motion can be withdrawn if there is no objection from the body when the request is made, and since no one objected when Council Member Johnson asked to withdraw his first substitute motion, it was withdrawn by consensus. Mr. Erwin went on to say that Council Member Johnson could make a substitute motion to postpone action on this item. In response to questioning, Mr. Erwin stated that a motion can only be amended to the third degree. Council Member Gillette suggested that Council Member Johnson amend his motion to postpone action regarding this item only until the next regularly scheduled work session to allow an opportunity to develop alternative suggestions for potential hybrid plans. Council Member Johnson agreed with the request. Council Member Helgeson objected to the amendment of the substitute motion. City Attorney Erwin stated since there is an objection to the amendment of the substitute motion that Council would need to vote on whether to allow the amendment to Council Member Johnson's substitute motion. Council Members Helgeson and Garrett stated that they could not support postponing this item since everyone has had ample time to review the three options and that Council needed to go ahead and make a decision regarding this item. The vote was called on whether or not to allow the amendment to the substitute motion, and Council by the following recorded vote agreed to allow the amendment to Council Member Johnson's substitute motion:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

The vote was called on Council Member Johnson's substitute motion with amendment and Council by the following recorded vote agreed to postpone action regarding this item until the April 22 work session to allow an opportunity to develop alternative suggestions for potential hybrid plans:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

// The meeting was recessed at 4:12 p.m. to April 1, at 7:00 p.m., to conduct a public hearing regarding the FY2009 Budget and Capital Improvements Program.

// A regular meeting of the Council of the City of Lynchburg was held on the 25th day of March, 2008, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Johnson gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// City Council recognized City employees that were chosen by their peers for distinguished customer service to receive the 2008 Catch A Star Award, i.e., Lynn Fox, Denise Musgrove, Master Firefighter Lincoln Barnes, Firefighter Anthony Andrews, Kelly Anders, Mike Burnley, Alice Colmore, Amanda Collins, Richard Eden, Paul Ernsberger, Mike Halas, Kris Keesee and Charlie Owen.

// Copies of the minutes of the March 11 (two meetings), 2008 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Finance - Bonds, Resolution #R-08-031 amending the FY 2008 General Fund's Adopted Budget and appropriating \$34,250 from the General Fund Reserve for Contingencies for fifty percent (50%) of the bond issuance costs, laid over from the March 11, 2008 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Community Planning - General, Resolution #R-08-032 amending the FY 2008 City Capital Project Funds and appropriating \$185,000 to install a traffic signal at the intersection of Paulette Circle and Enterprise Drive, laid over from the March 11, 2008 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Finance - Bonds, Resolution #R-08-035 amending the FY 2008 General, Water, Sewer and Solid Waste Management Funds Adopted Budgets and appropriating \$24,250, \$6,790, \$11,155 and \$6,305, respectively, with resources from the refunding bond proceeds for \$48,500 of estimated bond issuance costs, laid over from the March 11, 2008 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Central VA Mental Health, City Council received the list of candidates interested in serving on the Central Virginia Community Services Board.

// In the matter of Police - General, City Council Report #6 was considered. On motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-037, as presented, amending the FY 2008 General Fund and appropriating \$5,000, fully reimbursable, for the purchase of personal protective equipment in the Police Department:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Schools – Board of Trustees, a continuation of the public hearing was held regarding appointment to a vacancy that exists in District III on the Lynchburg School Board. Mayor Foster read the names of two individuals who have applied since the March 11 public hearing and who reside in District III and are interested in filling the vacancy on the School Board: Jason R. Stevens and Treney L. Tweedy. One individual questioned the qualifications of one of the applicants who home schooled her children. There was no one else present who wished to speak to this item. On motion of Council Member Johnson, seconded by Vice Mayor Dodson, Council by the following recorded vote closed the public hearing:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #8 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-038, as presented, approving the location and design of the Midtown Connector Phase I project:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #9 was considered. On motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R-08-039, as presented, approving the request to name two (2) private streets “Regents Parkway” and “Research Lab Road” in the Liberty University (LU) campus:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Police - General, City Council Report #10 was considered. On motion of Council Member Johnson, seconded by Council Member Garrett, Council by the following recorded vote adopted Ordinance #0-08-040, as presented, authorizing the City Manager to sign a Memorandum of Understand to participate in the Lynchburg Metropolitan Statistical Area (MSA) Communication Interoperability Project:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// Council Member Gillette stated that one of the Committees being considered in the closed meeting is the Central Virginia Community Services Board and since he has a contract with that organization, he plans to excuse himself from participating in the discussion and voting on the appointment to this Board.

// On motion of Council Member Johnson, seconded by Council Member Garrett, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., School Board (District III), Community Services Board and Parking Authority pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// Council Member Gillette excused himself from the closed meeting during the discussion regarding the appointment of an individual to fill a vacancy on the Central Virginia Community Services Board.

// The meeting was re-opened to the public.

// Council Member Johnson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Helgeson, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Seiffert, Council by the following recorded vote appointed Ripley Owen to serve on the Lynchburg Parking Authority to fill an unexpired term ending October 30, 2009:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// City Council asked that the Clerk of Council schedule interviews with the four candidates for the District 3 vacancy on the Lynchburg School Board for April 17, starting at 1:30 p.m.

// The meeting was recessed at 5:55 P.M. to April 1, at 7:00 P.M., Council Chamber, to conduct a public hearing regarding the Proposed FY2009 Budget and FY2009-2013 Capital Improvements Program.

Clerk of Council

April 1, 2008

// A special meeting of the Council of the City of Lynchburg, recessed from March 25, was held on the 1st day of April, 2008, at 7:00 P.M., in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a public hearing regarding the FY2009 Proposed Budget and the 2009-2013 Capital Improvements Program. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// A public hearing was held regarding the Proposed Fiscal Year 2009 Budgets of the City Government, Public Schools, Water, Sewer, Solid Waste, Airport and Other Funds, and the Proposed 2009-2013 Capital Improvements Program. City Manager Kimball Payne provided an overview regarding the FY2009 Proposed Budget and the 2009-2013 Capital Improvements Program. Twelve individuals spoke in support of funding for the following: Central Virginia Community Services, Greater Lynchburg Transit Company, Johnson Health Center, CASA, Peaceful Alternatives Community Mediation Center, and the Lynchburg Schools budget proposal. One individual questioned earlier comments that Lynchburg taxpayers were not adequately funding their share of the Schools budget. There was no one else present who wished to speak, and the public hearing was closed.

// The meeting was recessed at 7:49 p.m. to April 8, 1:00 P.M., to conduct a work session regarding the FY 2009 Proposed Budget.

Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 22, 2008**

AGENDA ITEM NO.: **3**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Approval of Contract with the Lynchburg Regional Chamber of Commerce for the Operation of the Tourism Program

RECOMMENDATION: Approve the proposed Management and Operating Agreement between the City and the Lynchburg Regional Chamber of Commerce for the Lynchburg Visitors Center and the Lynchburg Regional Convention and Visitors Bureau.

SUMMARY: After receiving Council's comments the draft management and operating agreement was revised. It is attached in final form with changes highlighted by underlining and strikethrough. Significant changes are:

- Page 2, Para. IV. A., clarification that the City Manager and the President of the LRCC hire the Director of Tourism.
- Page 2, Para. IV. C., clarifying the City Manager's continuing relationship with the Director of Tourism.
- Page 4, Para. VI. B. 3., conditioning the increase in annual funding.
- Page 9, Para. XIX. F., Stipulating applicability of FOIA to tourism program records and meetings.
- Page 11, Amendments to Exhibit A for clarity.

PRIOR ACTION(S): December 11, 2007, Council authorized a new contract with the Chamber of Commerce for the management and operation of the tourism program; March 25, 2008, Council reviewed a draft contract and provided input.

FISCAL IMPACT: As outlined in the contract, up to 73% of the Transient Occupancy Tax will be provided for the tourism program.

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Proposed Management and Operating Agreement with changes highlighted.

REVIEWED BY: lkp

FINAL DRAFT

MANAGEMENT AND OPERATING AGREEMENT
FOR THE LYNCHBURG VISITORS CENTER
AND THE LYNCHBURG REGIONAL CONVENTION AND VISITORS BUREAU

This MANAGEMENT AND OPERATING AGREEMENT ("Agreement") is made and entered into effective as of the 1st day of July, 2008, by and between the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "CITY", and the LYNCHBURG REGIONAL CHAMBER OF COMMERCE, a Virginia Corporation, hereinafter referred to as the "LRCC".

WITNESSETH:

WHEREAS, the CITY and the LRCC have had an agreement since 1993 for the management of the Lynchburg Regional Convention & Visitors Bureau (the "LRCVB") by the LRCC including, without limitation and as a part of the operations of the LRCVB, the lease and operation of the VISITORS INFORMATION CENTER ("VISITORS CENTER") located at 216 12th Street, Lynchburg, Virginia; and

WHEREAS, the CITY and the LRCC have agreed that a changing environment, with new challenges and opportunities, requires the revision of the current structure of the CITY's tourism program with the ultimate goal of establishing an even more effective program and structure that will maximize tourism opportunities for the community; and

WHEREAS, the CITY and the LRCC have agreed that the LYNCHBURG REGIONAL TOURISM BOARD (the "BOARD") will be established as set forth in this Agreement. The BOARD will be responsible for the development and setting of the tourism program policies and strategy including those for the operation of the LRCVB (including the VISITORS CENTER) as well as the review of the annual tourism plans as set forth in this Agreement; and

WHEREAS, the CITY and the LRCC desire that the LRCC continue the operation and the management of the LRCVB (including the VISITORS CENTER) for an additional five-year period.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the parties do hereby mutually covenant and agree as follows:

I. PREMISES

The CITY hereby demises, leases and rents unto the LRCC, and the LRCC hereby takes, accepts and rents from the CITY, the VISITORS CENTER building located at 216 12th Street, Lynchburg, Virginia (hereinafter referred to as the "Premises"), and the surrounding grounds. Title to the Premises during the term of this Agreement shall remain in the CITY. The VISITORS CENTER shall continue to be operated by the LRCC as a part of the LRCVB at the existing location or such other location as may be agreed upon by the CITY and the LRCC.

II. TERM

This Agreement shall be for a term of sixty six (66) months beginning on the 1st day of July, 2008 and ending on the 31st day of December, 2013. Thereafter, this Agreement may be renewed by mutual written agreement of the CITY and the LRCC. In the event the LRCC shall continue to provide services under this Agreement after the end of the term of this Agreement and the CITY shall continue to accept services from the LRCC after the end of the term of this Agreement, this Agreement shall continue in full force and

effect until thereafter terminated by either party upon one hundred eighty (180) days written notice to the other party. Upon termination of this Agreement, the LRCC shall promptly and in good condition surrender the Premises to the CITY, ordinary wear and tear excepted.

III. RENTAL

The LRCC agrees to pay the CITY the sum of one dollar (\$1.00) per year payable upon the first day of each calendar year as rental for the Premises.

IV. LRCC RESPONSIBILITIES AND REPORTING

A. Tourism Program Responsibilities. Subject to the terms of this Agreement, the LRCC will maintain authority over and responsibility for the tourism program operation. The LRCC will be responsible for: (1) the development of the annual Budget, Program Plan and Marketing Plan of the LRCVB subject to the approval of the BOARD; (2) the establishment of appropriate benchmark standards and performance measures to monitor program effectiveness which shall be approved by the BOARD; (3) the hiring and supervision of a Director of Tourism who shall serve as the primary interface between the LRCC and the CITY and the BOARD and who will be hired by the CITY MANAGER and the President of the LRCC following a process mutually agreed upon by the CITY MANAGER'S OFFICE ("CMO") and the LRCC. The initial Director of Tourism job description, salary and benefits and hiring process to be followed in 2008 as well as the hiring of any replacement Director shall be subject to the mutual approval of the LRCC and the CMO; (4) the hiring and supervision of all other LRCVB employees (including the LRCVB employees that work at the VISITORS CENTER) and the termination of all LRCVB employees; and (5) the day-to-day operation of the LRCVB (including the VISITORS CENTER).

B. Reporting. Within 45 days after the end of each calendar quarter, the LRCC shall file quarterly reports with the BOARD and the CMO which shall include information and statistics from the LRCVB (including the VISITORS CENTER), the activities of the LRCVB staff, information on relevant performance measures and any other relevant information reasonably requested by either the BOARD and/or the CMO. By May 1st of each year, the LRCC will file an annual report with the BOARD and the CMO for the preceding calendar year updating and summarizing the information contained in the preceding calendar year's quarterly reports including, without limitation, financial and marketing information. Expenses, anticipated revenues, budget analysis, the work program/action plans and accomplishments, marketing expenditures and any other relevant information reasonably requested by either the BOARD and/or the CMO will be reviewed and discussed at such other times as the LRCC, CMO and the BOARD deem appropriate.

C. For purposes of collaboration, coordination and information the CITY MANAGER shall have unfettered access to the Director of Tourism. When requested, the Director of Tourism shall provide unfiltered information to the CITY MANAGER. The LRCC shall be kept fully informed of any contact between the CITY MANAGER and the Director of Tourism and the CITY MANAGER shall not attempt to direct the work of the Director of Tourism.

V. LYNCHBURG REGIONAL TOURISM BOARD

A. Formation and Membership. As part of this Agreement, the parties hereto agree to establish the BOARD as follows following a process jointly agreed upon by the CMO and the LRCC. The size of the BOARD shall be seven (7), nine (9) or eleven (11) members. Persons interested in serving as a member of the BOARD shall fill out and submit an application to the Clerk of Council for initial processing. The form of the application shall be mutually agreed upon by the CMO and the LRCC. The criteria for BOARD membership may include without limitation: (1) knowledge of the tourism industry and economic development issues; (2) relevant business experience; and (3) interest in and support of the LRCVB and regional tourism. Membership applications shall be submitted to and reviewed by the CMO

and the LRCC and, if necessary, interviews held by one or both groups following a process jointly agreed upon by the CMO and the LRCC. BOARD member appointments and re-appointments shall be made by CITY Council after consultation with the LRCC Board of Directors. The CMO and the LRCC shall mutually agree on the appointment of the first Chair of the BOARD. Thereafter, the BOARD shall elect its Chair. BOARD members shall serve staggered three (3) year terms. BOARD meetings shall be held as often as determined by the Chair of the BOARD or a majority of the members of the BOARD but not less than quarterly. BOARD members shall attend a minimum of seventy-five percent (75%) of full BOARD and their designated Committee meetings during their term.

B. Committees. The BOARD will have three committees: (1) the Program Committee; (2) the Marketing Committee; and (3) the Finance Committee. The Committees will each have a minimum of three (3) BOARD members who will be appointed by the Chair of the BOARD. The Chair of each Committee will also be appointed by the Chair of the BOARD.

C. BOARD Functions. The function of the BOARD is to establish tourism policies and strategies including the policies and strategies for operation of the LRCVB (including the VISITORS CENTER). BOARD functions include the following:

1. Mission Statement. Using input provided by the LRCC, to review and to recommend to CITY Council and the LRCC Board of Directors proposed revisions, if any, to the mission statement of the LRCVB within six (6) months after the date the first meeting of the members of the new BOARD is held (the "First BOARD Meeting").

2. Tourism Policies and Strategies. Using input provided by the LRCC, to recommend to CITY Council and the LRCC Board of Directors long term tourism policies and strategies including long term policies and strategies for the management and operation of the LRCVB (including the VISITORS CENTER) within six (6) months after the date of the First BOARD Meeting.

3. Benchmark Standards and Performance Measures. Using input and recommendations from the LRCC, to review and approve, within six (6) months after the date of the First BOARD Meeting, benchmark standards and performance measures to help demonstrate and evaluate the performance by LRCC toward meeting its obligations under the terms of this Agreement. The benchmark standards and performance measures shall be selected from best practices for the tourism industry which are applicable to tourism opportunities in the Lynchburg, VA regional area. Sources of possible benchmark standards/performance measures include, without limitation, the following sources:

- a. Recommendations of the 2006-07 Lynchburg Tourism Task Force
- b. Standards of the Destination Marketing Association International (DMAI)
- c. Standards of the International City/County Management Association (ICMA)
- d. Standards of the Virginia Tourism Corporation (VTC)
- e. Recommendations from the research of Professor Paul Young at Liberty University.

D. Oversight Committee. The need and requirement to maintain the Oversight Committee described in the January 1, 2006 Management and Operating Agreement between the CITY and the LRCC is deleted since the work of the 2006-07 Lynchburg Tourism Task Force has been completed and the BOARD is being formed.

VI. FUNDING AND BUDGETARY ACCOUNTABILITY

A. Annual Budget. The budget for each upcoming calendar year shall be prepared by the LRCC and submitted on or before November 1st of the preceding calendar year to the BOARD for review and approval. The final version of the budget, with all agreed upon revisions, shall be approved in writing by the BOARD and the LRCC on or before the immediately following December 15th and provided to the

CITY. Any revisions to the budget during the year also shall be approved in writing by the BOARD and the LRCC and provided to the CITY.

B. Operating Funds. The CITY will advance to the LRCC operating funds to be used by the LRCC for the administration and operation of the LRCVB in accordance with the terms of the budget ("Operating Funds").

1. Beginning on June 15, 2008 and continuing quarterly thereafter, the Operating Funds will be paid by the CITY to the LRCC in four equal quarterly payments ("Operating Fund Payments") in advance of the first day of each quarter and on or before, as applicable, each December 15th, March 15th, June 15th and September 15th. Subject to the stipulations below, Operating Funds for each year shall be provided by the CITY to the LRCC in the following amounts:

<u>Fiscal Year Ending</u>	<u>Annual Amount</u>	<u>Quarterly Operating Fund Payments</u>
June 30, 2009	\$670,000	\$167,500
June 30, 2010	\$890,000	\$222,500
June 30, 2011	\$1,100,000	\$275,000

2. For the fiscal years beginning July 1, 2011 and ending June 30, 2012 (Fiscal Year 2012) and thereafter, Operating Funds shall be provided by the CITY to the LRCC in amounts equal to seventy-three percent (73%) of the lodging tax revenues received by the CITY (from both the 5.5% Transient Occupancy Tax and the \$1.00 per-night-per-rented room use fee, combined, as well as any other lodging tax revenues or similar type tax revenues assessed by the CITY) during the time period running from April 1st to March 31st immediately prior to the start of the current fiscal year.

3. The increase in annual funding outlined above is subject to: (i) the development by the BOARD of the benchmark standards and performance measures called for in Section V. C. (3) of this Agreement using input and recommendations provided by the LRCC; and (ii) the CITY's receipt of the annual report, the Program Plan and the proposed budget showing how the additional funding will be utilized as called for in Sections VII.B, VII.A and VI.A, respectively, of this Agreement.

4. The method and schedule for reimbursement of tourism costs expended by the LRCC including the specific costs, methods and amounts to be reimbursed shall be mutually agreed upon each year by the BOARD and the LRCC as part of the LRCVB annual budget process. The reimbursement method and schedule for the fiscal year ending June 30, 2009 is set forth in **Exhibit A** attached hereto and incorporated herein by reference.

C. Accounting. To ensure budgetary accountability and transparency the tourism program budget shall be separated from the overall LRCC budget. The LRCC shall provide a full breakout of the costs of shared facilities and personnel in a manner reasonably and mutually acceptable to the CMO, the BOARD Finance Committee and the LRCC. This could be shown as a transfer between the tourism program and overall LRCC budgets. Financial reports showing expenditures and revenues to date and a comparison to budget estimates shall be provided to the BOARD Finance Committee and the CMO within 45 days after the end of each quarter. An annual financial report showing all of the expenditure and revenues during the prior calendar year shall be provided by LRCC to the BOARD Finance Committee and the CMO by May 1st of the following year. The LRCC shall conduct an audit of the tourism program paid for with tourism program revenues.

VII. ANNUAL PROGRAM

A. Program Plan. On or before each November 1st, the LRCC shall prepare and submit to the BOARD Program Committee the annual Tourism Program plan for the upcoming calendar year. The annual Tourism Program plan shall provide the Program goals and objectives for the upcoming calendar year including the plan for achievement of the mutually agreed upon performance measures. The final version of the Program Plan shall be mutually agreed upon by the BOARD and the LRCC on or before the immediately following December 15th and provided to the CITY.

B. Prior Year Annual Reporting. On or before each May 1st, the LRCC shall prepare and submit to the BOARD Program Committee and the CMO annual Tourism Program reports with the information set forth in Section IV.B of this Agreement and describing the tourism activities in the prior calendar year. The annual report shall indicate how the agreed upon performance measures described in Section V.C of this Agreement have been achieved. The annual Tourism Program report shall be presented by the BOARD at a joint meeting of the CITY Council, the BOARD and the LRCC for a discussion of prior year achievements and current year plans.

C. Regional Meetings. The CITY and LRCC agree that the LRCVB shall continue to promote regional tourism activities in partnership with other localities in our region to the greatest extent possible for the mutual benefit of all groups. The LRCVB will cooperate and collaborate with other regional tourism entities to plan for, market, advertise, and support events of regional interest and will seek opportunities for greater regional tourism programming. The BOARD will annually meet with adjoining municipalities and major regional tourism stakeholders to discuss regional tourism opportunities.

D. Destination Marketing Association International Accreditation. LRCC will continually seek to maintain the DMAI accreditation of the LRCVB obtained by the LRCC in 2007.

E. Program Oversight. The BOARD Program Committee and the BOARD will be continually involved in the oversight of the tourism program and LRCVB operations (including the VISITORS CENTER).

F. Marketing Partnership. The Director of Tourism will continue to participate in the CITY's Marketing Partnership as a full member.

VIII. ANNUAL MARKETING PLANS

A. Marketing Plans. The LRCC shall prepare and submit, on or before each November 1st, the Marketing Plan for the upcoming calendar year to the BOARD Marketing Committee. The annual Marketing Plan shall provide the marketing goals and objectives for the upcoming calendar year including the specific planned print advertising and other advertising expenditures. The final version of the Marketing Plan shall be mutually agreed upon by the BOARD and the LRCC on or before the immediately following December 15th and provided to the CITY.

B. Cooperative Marketing Efforts. When advantageous to the tourism program, both financially and from a marketing standpoint, the LRCVB shall seek opportunities to market and advertise local tourism opportunities with other regional and Virginia groups.

IX. LRCVB EMPLOYEES

The LRCC shall operate the VISITORS CENTER at a sufficient staffing level that will enable it to adequately fulfill its responsibilities under this Agreement and to maintain its status as a State Certified Visitors Information Center. The LRCC agrees that all full-time LRCC employees staffing the VISITORS CENTER and working with the LRCVB, if otherwise eligible, shall be provided with the insurance and retirement benefits which are provided to other LRCC employees.

X. VISITORS CENTER FURNITURE AND EQUIPMENT

The CITY originally furnished the VISITORS CENTER with certain furniture and equipment in 1993 to be used for the tourism program, as was described in an attachment to the original and subsequent management and operating agreements between the CITY and the LRCC. Since then, certain changes have been made to the furniture and equipment. The intent is that title to any remaining or replacement furniture and equipment provided by the CITY and still on the Premises at the expiration of this Agreement shall remain with the CITY. Subsequent to the commencement of this Agreement the LRCC shall prepare and submit to the CMO an updated inventory of furniture and equipment identifying all furniture and equipment on the Premises and the ownership of the furniture and equipment. The updated VISITORS CENTER furniture and equipment 2008 inventory shall be finalized and presented by the LRCC to the CMO on or before November 1, 2008. The inventory shall be updated on or before November 1st of each year of this Agreement. The CITY is under no obligation to provide additional furniture or equipment or to replace existing furniture or equipment to be used by the LRCVB for the tourism program. Any furniture or equipment acquired or replaced by the LRCC for use by the LRCVB on the Premises during the term of this Agreement shall belong to the LRCC.

XI. MAINTENANCE, REPAIRS AND IMPROVEMENTS AT THE VISITORS CENTER

The following terms and provisions shall apply to the occupancy and use by the LRCC of the VISITORS CENTER currently located at 216 12th Street, Lynchburg, Virginia. The terms and provisions of this Section XI of the Agreement shall be reviewed and, if necessary, amended if the VISITORS CENTER is moved to a new location mutually agreed upon by the CITY and the LRCC.

A. Acceptance. The LRCC has inspected the current Premises and agrees to accept the same in the condition in which the Premises now are.

B. Improvements. While the CITY shall have the right to improve the Premises during the term of this Agreement, the CITY shall be under no duty or obligation to do so. The LRCC shall not make any permanent improvements or alterations to the Premises without the prior written approval of the CMO. Said permanent improvements or alterations, if approved by the CMO, are to be made at the expense of the LRCC and reimbursed by the CITY as agreed to by the CMO. Any permanent improvements or alterations made to the Premises by the LRCC during the term of this Agreement must first be approved by the CMO, shall become the property of the CITY and may not be removed from the Premises without the prior written approval of the CMO.

C. Maintenance. During the term of this Agreement, the CITY will provide routine day-to-day janitorial services, repairs and maintenance of the Premises and surrounding grounds (including without limitation the control of any environmental contamination and all repairs to the HVAC equipment). All repairs and maintenance shall be performed by the CITY diligently and expeditiously. The LRCC will be responsible for all necessary maintenance, repair or replacement of furniture and equipment used by the LRCVB in the tourism program.

D. Access. For the purpose of performing its responsibilities hereunder, the CITY shall have the right to enter upon the Premises, at such times as the CITY, in its sole discretion, deems necessary and such right shall include the right to store on the Premises in a mutually agreed upon location, the parts, equipment, and materials necessary to perform such responsibilities.

E. Security. The LRCC shall secure the Premises during and after each daily use including, without limitation, locking all windows and doors and taking all appropriate security measures both during and after the VISITORS CENTER's hours of operation.

XII. VISITORS CENTER UTILITIES

The electric meter for the Premises will remain in the CITY's name and the CITY will pay for all reasonable electric usage. The LRCC shall pay for all telephone and all other utility charges arising from and needed for its use of the Premises and such charges will be reimbursed through the annual Budget.

XIII. ASSIGNMENT OR TRANSFER OF AGREEMENT

This Agreement shall not be transferred or assigned to any third party without the mutual consent of both the CITY and the LRCC.

XIV. DAMAGE TO THE PREMISES OR OTHER PROPERTY

A. Premises Damage. If the Premises shall be materially damaged or destroyed by fire, the elements, the public enemy or other casualty to the extent that the Premises becomes untenable, the CITY shall have the option, at its sole discretion, of repairing the Premises, acquiring a new property for the VISITORS CENTER or canceling this Agreement without further obligation to the LRCC.

B. LRCC Property Damage. The CITY shall not be liable for any damage to or loss of any property owned by the LRCC or the property of any of its agents or employees which is brought onto the Premises regardless of how such damage or loss may occur. It is expressly agreed and understood that the LRCC, its agents and employees, in placing their property in and on the Premises, do so at their own risk.

XV. INSURANCE AND INDEMNIFICATION FOR VISITORS CENTER

A. CITY Insurance. The CITY shall provide for all risk fire and casualty insurance coverage on the improvements, additions, alterations and fixtures made to the VISITORS CENTER Premises in the amount of their full insurable replacement value.

B. LRCC Property. If the LRCC desires insurance against loss or damage by fire (multi-peril coverage) to cover its property located on the Premises including without limitation merchandise, inventory, equipment and business property used by the LRCC, it shall be the LRCC's obligation to obtain and maintain such insurance.

C. Waiver of Subrogation. Any provision in this Agreement to the contrary notwithstanding, the CITY and the LRCC hereby waive any and all rights to recover from the other party and from their agents, servants and employees, for any, loss or damage from risks ordinarily insured against under a standard fire insurance policy with extended coverage, but each party's waiver only applies to the extent that such loss or damage is covered by an insurance policy or policies in force and is collected by the CITY and the LRCC, as the case may be. The CITY and the LRCC each covenant and agree that they will, if a waiver of subrogation clause is not already part of their respective fire insurance policies, on or before the effective date of this Agreement request their respective insurance companies to issue and attach to such policies a waiver of subrogation clause with respect to the other party, their agents, servants and employees.

D. LRCC Indemnification. The LRCC shall indemnify and hold harmless and assume the defense of the CITY, its agents, employees, and officials, from any and all liability, expenses, or claims which may be recovered from, or sought to be recovered from the CITY, its employees, officials, and agents by third parties by reason of or on account of any third party's property damage or any personal injury, sickness or death of any third party, which property damage, personal injury, sickness or death directly arises from the LRCC's use and operation of the Premises but is not a result of the negligence or willful misconduct of the CITY or its agents, employees or officials. The CITY shall promptly submit all claims received from third parties to the LRCC for resolution and the LRCC shall assume the complete defense and, if elected by the LRCC, settlement of all such third party claims. The CITY shall provide reasonable cooperation

and assistance to the LRCC in the defense of all such third party claims. To effect the same, the LRCC agrees, at its expense, to obtain and keep in full force and effect at all times during its use and occupancy of the Premises, comprehensive liability insurance naming the CITY, its agents, employees and officials, as an additional insured, in the amount of \$1,000,000.00 per accident insuring the CITY from the LRCVB's use and operation of the Premises. The LRCC further agrees to deliver to the CITY a copy of said insurance policy and a certificate of insurance showing the same to be in full force and effect. The insurance policy shall contain provisions requiring in the case of cancellation that the CITY be given thirty (30) days prior written notice of such cancellation. The insurance required hereunder shall be primary and any insurance or self insurance maintained by the CITY shall be in excess of and shall not contribute with any insurance provided by the LRCC under this Agreement. Any deductibles or self-insured retentions applicable to required coverage shall be paid by the LRCC and the CITY shall not be required to participate therewith. The LRCC waives all rights of subrogation against the CITY to the extent that such loss or damage is covered by an insurance policy or policies in force and is collected by the LRCC. In order to comply with this paragraph, the LRCC may add the CITY to its current insurance coverage rather than obtaining new insurance coverage, if that coverage meets the above requirements in all other respects.

XVI. DISPUTE RESOLUTION.

In addition to the claims resolution procedure set forth in Section XV.D of this Agreement, the CITY and the BOARD agree to promptly submit all other complaints and disputes about the tourism program received by the CITY and/or the BOARD from tourists, visitors, citizens, stakeholders and other parties in writing, to the Director of Tourism for resolution. The Director of Tourism shall provide a written acknowledgement (by mail, fax or electronic mail) of receipt of the tourism program complaint. In addition, the Director of Tourism shall keep a written log of all such complaints and disputes received by the LRCC including the date of receipt, a brief description of the complaint and the status or resolution of the complaint. The Director of Tourism shall seek to promptly communicate with the complaining person and seek to informally resolve all disputes and complaints. If the Director of Tourism is unable to resolve the dispute or complaint, they shall forward the dispute or complaint: (a) to the BOARD for resolution if the dispute or complaint is related to the financing, programming or marketing of the tourist program; or (b) to the CMO and the LRCC for resolution if the dispute or complaint is related to tourism program legal, contractual or personnel issues.

XVII. NONDISCRIMINATION

The LRCC agrees that in the operation of the LRCVB (including the use and operation of the VISITORS CENTER Premises), it will not, on the grounds of race, color, sex, disability or national origin, discriminate or permit discrimination against any person or groups of persons.

XVIII. NOTICE

Formal notices to the LRCC under this Agreement shall be sufficient if sent, by certified mail, postage prepaid, return receipt requested and addressed to President, Lynchburg Regional Chamber of Commerce, 2015 Memorial Ave., Lynchburg, Virginia 24501, or to such other persons as the LRCC may designate in writing from time to time. Formal notices to the CITY shall be sufficient if mailed, by certified, postage prepaid, return receipt requested and addressed to the City Manager, 900 Church Street, Lynchburg, Virginia 24504, or to such other persons as the CITY may designate in writing from time to time.

XIX. GENERAL PROVISIONS

A. Headings. Marginal headings contained in this Agreement are for convenience only and shall not be considered to amplify, relate, modify or otherwise affect any of the terms, provisions or conditions of this Agreement.

B. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

C. Entire Agreement. All terms and conditions with respect to this Agreement are expressly contained herein, and both parties agree that no representative or agent of the CITY or the LRCC has made any representation or promise with respect to this Agreement not expressly contained herein.

D. Severability. In the event that any provision of this Agreement shall be construed to be invalid or unenforceable, then the remaining portions shall remain in full force and effect.

E. Compliance. The LRCC agrees to observe and obey during the term of this Agreement all federal, state and local laws, ordinances, rules and regulations currently in force or subsequently adopted for the operation of the LRCVB and the VISITORS CENTER.

F. Public Records and Meetings. The LRCC and the LRCVB agree to comply with the provisions of the Virginia Freedom of Information Act dealing with public records and meetings in the development, management and operation of the tourism program.

G. Default. In the event that either party fails to perform any of the terms and conditions required by this Agreement and fails to remedy such default within a period of thirty (30) days after the receipt from the non-defaulting party of a written notice to remedy the same, the non-defaulting party shall have the right to cancel this Agreement without additional notice to the defaulting party. No waiver of default by either party of any of the terms or conditions of this Agreement to be kept or performed by the other party shall be considered to be or act as a waiver in the event of any subsequent default of such terms and conditions by the other party.

[END OF TEXT]

IN TESTIMONY WHEREOF, the CITY has caused its name to be hereunto subscribed by L. Kimball Payne, III, its City Manager, and attested by Patricia W. Kost, its Clerk of Council; and the LRCC has caused its name to be hereunder subscribed by Rex Hammond, its President & CEO, all effective as of the day and year first above written.

CITY OF LYNCHBURG

By: _____
L. Kimball Payne, III
City Manager

Attest: _____
Patricia W. Kost
Clerk of Council

LYNCHBURG REGIONAL
CHAMBER OF COMMERCE

By: _____
Rex Hammond
President and Chief Executive Officer

COMMONWEALTH OF VIRGINIA:
CITY OF LYNCHBURG, to-wit:

The foregoing document was acknowledged before me this _____ day of _____, 2008, by L. KIMBALL PAYNE, III and PATRICIA W. KOST, City Manager and Clerk of Council, respectively, for the CITY OF LYNCHBURG.

Notary Public

My commission expires: _____

COMMONWEALTH OF VIRGINIA:
CITY OF LYNCHBURG, to-wit:

The foregoing document was acknowledged before me this _____ day of _____, 2008, by Rex Hammond, President and Chief Executive Officer, of the LYNCHBURG REGIONAL CHAMBER OF COMMERCE.

Notary Public

My commission expires: _____

Exhibit A

Fiscal Year 2009 Reimbursement Method and Schedule

Salaries and Benefits

Salary and benefit expenses for the Tourism and Visitors Center staff are based on direct allocation. Benefit expenses include all benefits detailed in the LRCC policy manual.

Support Services

The expense for support services is allocated based on the percentage of time Chamber staff spends on Tourism related projects and activities. On a monthly basis the LRCC Director of Finance surveys staff to determine time devoted to Tourism related projects and activities. The expense allocated is based on the employee's cost (salary + benefits). The expense allocations may change as additional staff are hired for the Tourism program including, but not limited to, the new Director of Tourism.

Building and Grounds

Building and grounds expenses consist of the following: utilities, custodial, building insurance and rent. Utilities, custodial and building insurance expenses are allocated based on the percentage of Chamber office space utilized by Tourism staff. ~~Tourism staff occupies four of the twelve occupied offices or 33%.~~ Rent is billed to the Tourism division at a rate of \$400 per month. This is based on the market value of the space occupied or shared by Tourism staff.

General Expenses

General expenses consist of the following: office supplies, printing, D&O insurance, dues, subscriptions and telephone expenses. These expenses are allocated based on the number of full-time Tourism staff. ~~There are three Tourism employees that account for 25% of the total number of full time employees.~~

Equipment

Equipment expenses consist of the following: depreciation, repairs, taxes and licenses. These expenses are allocated based on the number of full-time Tourism staff. ~~There are three Tourism employees that account for 25% of the total number of full time employees.~~

Direct Expenses

The following expenses are based on direct allocation:

postage	production
marketing and advertising	convention services
meetings, meals, lodging & travel	trade show graphics
brochure distribution	small equipment purchases
long distance service	temporary services
equipment lease and rental	staff training
website design	depreciation (VC)
promotional items	telephone (VC & long distance)
registration fees	building repairs & maintenance (VC)