



FOR IMMEDIATE RELEASE: Wednesday, Sept. 19, 2018

CONTACT: Lenka Wright, Director of Communications, 408-615-5515 or lwright@santaclaraca.gov

Audit of Santa Clara Convention Center and Convention-Visitors Bureau Finds Financial Mismanagement, Conflicts of Interest and Misuse of Government Resources under Chamber of Commerce Management – City Takes Action to Terminate 34-Year Chamber Agreement

Performance audit reveals Chamber's questionable financial expenditures, major ethical violations and need for increased City oversight

Santa Clara Chamber of Commerce's mismanagement resulted in:

- 1. \$37 million in lost funds to the City of Santa Clara for the audited period (Table 1)**
 - Over the past 10 years, the City invested \$14.9 million in general fund money to support the Chamber's Convention Center and Convention-Visitors Bureau activities, which resulted in tax and assessment revenue of only \$11.3 million, amounting to a financial loss of \$3.6 million.
 - The City suffered \$18.9 million in lost revenue due to facility discounts granted (\$16.1 million) and undisclosed, unauthorized and improper fee waivers to Chamber members and other insiders (\$2.8 million) over the past seven fiscal years, "which led to a direct financial loss to the City."
 - The Chamber paid over \$300,000 in staff bonuses over the past four fiscal years without any public disclosure or Council authorization, with a portion of these funds paid "without a formal contract or written legal agreement in place."
 - The Convention Center and CVB enterprises experienced a \$9.4 million operating loss over the last 10 years despite receiving \$17.3 million in operating and capital subsidies from the City.
- 2. Board members engaged in self-dealing and used public assets for their financial gain, such as:** political fundraising and campaign activities, diverting public funds to their personal business and held personal weddings, birthday parties and more events at a direct loss to the City.
- 3. Managed public assets without transparency and with conflicts of interests, using City funds to pay invoices without proper documentations.**

SANTA CLARA, Calif. - At the Tuesday, Sept. 18 City Council meeting, TAP International, an independent auditor, presented the findings of its [performance audit](#) of the Santa Clara Convention Center (Convention Center) and Convention-Visitors Bureau (CVB), under the management of the Santa Clara Chamber of Commerce. The audit showed a disturbing pattern of financial and operational mismanagement which reduced the financial potential and performance of both entities while also raising major ethical concerns. The Auditor recommends that the City engage state and federal agencies to investigate potential violations of law.

A City analysis of the audit's findings shows that the Chamber's operation of the Convention Center and CVB resulted in \$20.5 million of net losses and City subsidies over the last several years. The vast majority of that amount was lost revenue from excessive facility discounts and free rentals from 2011-2018.

"The audit finds that the City of Santa Clara has missed out on approximately \$18.9 million of convention center revenue over the past seven years, resulting from a combination of

unauthorized discounts and fee waivers. Given the decades that the Santa Clara Chamber of Commerce has been holding these contracts, it is likely that the City has lost additional tens of millions of dollars due to mismanagement, self-dealing and misuse of one of our City's valued assets," said Santa Clara Mayor Lisa M. Gillmor. "This Council's efforts to reform must now focus on fixing this situation, making sure this never happens again. We need to reset how the convention center operates."

The audit also noted that the Convention Center and CVB both had satisfactory fiscal health as well as high customer satisfaction ratings. However, the audit's assessment of fiscal health doesn't take into account whether taxpayers' funds were spent appropriately, transparently or approved by the Council when required.

For example, the Chamber booked 353 fee-free events over the last seven years for members and other insiders, resulting in \$2.8 million of lost revenue to the City, and provided substantial discounts to 1,720 events – more than half of events booked during this period – resulting in \$16.1 million of lost revenue to the City. The audit found that the high number of event discounts as well as the amount of discounts was excessive when compared to industry standards. These practices resulted in the loss of revenue to the City. Among the discounts given by the Chamber was \$1.3 million to a religious organization, which represented a 93 percent discount and raises legal issues. In all, the Chamber provided \$18.9 million of fee waivers and discounts for the audited period.

In addition, the audit points to several incidents in which the Chamber appears to have allowed current board members, staff and other insiders to personally gain financially through misuse of public funds or public property. According to the audit, there were conflicts of interest and self-dealing including:

- The CVB spent \$5,000 of taxpayer money this past April for advertisements in the Santa Clara Weekly, which is owned by a Chamber board member. The City will need to research the frequency of ads placed in this local publication, beyond this referenced incident, to determine the extent of frequency of self-dealing.
- The Chamber allowed a second board member to operate a packaging and shipping store in the Convention Center without a lease agreement and without first having allowed other vendors to compete for the business. Additionally, the Chamber allowed the board member's use without addressing the conflict of interest in allowing a Chamber member to financially benefit from operating his personal business in a publicly-owned facility.

The Chamber also apparently allowed for the illegal use of public assets for the Santa Clara Chamber of Commerce Political Action Committee by subsidizing the PAC's political fundraising activities with free or discounted use of the convention center and by using CVB administrative resources to raise campaign funds and to participate in political activity. Another finding includes the Chamber's use of the publicly-owned Convention Center to boost its own membership by offering discounts and free use of the facility.

Per the audit's recommendations, "Further legal analysis is needed to determine if the Contractor (Chamber): (1) violated its 501c(6) tax exempt status when it provided full facility discounts to its members, and (2) engaged in self-dealing when it used its personal or organizational relationships to offer free use of publicly owned facilities, and allowed the Contractor's Board member to assume SCCC (Convention Center) services without implementing a competitive bid."

The audit also noted, "Investigation is needed by the California Fair Political Practices Commission (FPPC) to determine if violation of state law occurred when the Contractor allowed

the Santa Clara Chamber Political Action Committee to use SCCC (Convention Center) facilities free of rental charges.”

A separate FPPC review is needed to look at the CVB's improper issuance of an \$8,000 check to the PAC, according to the audit.

“The audit confirmed serious misuse and mismanagement of the City’s assets and the City’s past lack of oversight added to the problem,” stated City Manager Deanna J. Santana. “While the Council has been focused on various reform efforts to improve management of public resources, we must acknowledge the City’s past failures in overseeing these contracts. We must now dedicate the necessary professional resources to take corrective action. Unfortunately, the audit shows that the magnitude of corrective action needed is significant.”

The audit noted that the management practices surrounding the Chamber’s operation of the Convention Center and CVB might have been discovered earlier if the City had strong agreements in place and had implemented effective contract oversight. The City’s contracts with the Chamber did not have key internal controls such as reviews of financial transactions, facility use policies, and clear financial and operating performance benchmarks. The auditor recognized that due to the current City administration taking a closer look at these contracts, the Council has the opportunity to address these troubling audit findings.

During Tuesday’s meeting, the Council approved the issuance of a 180-day termination notice to the Chamber for its Convention Center management contract which has been in effect since 1984. The Council also gave direction to seek competitive proposals to manage and operate the City facility under a new contract with much stronger reporting and oversight provisions. Additional staffing for City contract oversight was also approved.

At the Tuesday, Oct. 9 meeting, the Council will further discuss the Convention Center and CVB audit, including next steps on their operations. The agenda will include a City response to the audit. The Council also offered the Chamber an opportunity to submit a response to the audit.

Audit Findings – Table 1

The net financial impact to the City of Santa Clara as identified in the audit resulted in \$20.5 million in lost revenue to the City and City subsidies as summarized in the table below.

Net Lost Revenue and City Subsidies	Amount (in Millions)	Note	Time Period	Audit
Facility Discounts (1,720 events)	(\$16.1)		2011-2018	Pg. 39
Facility Free Rent (353 events)	(\$2.8)	(1)	2011-2018	Pg. 40
Bonus Payments to Convention Center Staff	(\$0.3)	(2)	2014-2017	Pg. 25
City General Fund Capital Expenditures	(\$2.4)	(3)	2007-2017	Pg. 16
City Annual Payments to CVB	(\$14.9)	(4)	2007-2017	Pg. 56
City Paid Management/Administration Fee	(\$0.5)		2007-2017	Pg. 59
TOTAL Lost Revenue and City Subsidies	(\$37.0)			
Positive Direct Convention Center/CVB Financial Impact	\$11.3		2007-2017	Pg. 21
Convention Center Net Income	\$5.2	(5)	2007-2017	Pg. 15
TOTAL Positive Convention Center/CVB Financial Impact	\$16.5			
TOTAL Net Lost Revenue and City Subsidies	(\$20.5)			

⁽¹⁾ Includes free rentals for Chamber members, staff and other insiders for wedding receptions, birthday parties and other events

- (2) Reflects bonus payments over four fiscal years only; likely to be higher with completion of more review
- (3) Includes \$82,039 of City funds paid in 2007 not included in the audit
- (4) \$14.9 million in City payments subsidized the Convention Center/CVB net loss of \$9.4 million
- (5) Does not include the City paid management/administration fee

Through two public contracts that provided the Chamber with City General Fund subsidies totaling approximately \$1.6 million per year, the Chamber has been managing the Convention Center and CVB on behalf of the City for over 30 years. TAP International's audit was the first comprehensive audit of the Chamber's contract performance since the relationship began.

In the spring of 2018, the Council took action to suspend payments for the Convention Center contract and allowed the second management contract for the CVB to expire in June 2018.

For additional details and background, visit the [Updates for Santa Clara Chamber of Commerce and Convention Center, Convention-Visitors Bureau Agreements website.](#)

About the City of Santa Clara

Located at the heart of Silicon Valley about 45 miles south of San Francisco, the City of Santa Clara truly is "The Center of What's Possible." Incorporated in 1852, Santa Clara covers an area of 19.3 square miles with a population of 120,000. Santa Clara is home to an extraordinary array of high-tech companies, including Applied Materials, Hewlett-Packard, Intel, Nvidia, Oracle, and Ericsson. The City of Santa Clara is also home to Santa Clara University, California's Great America Theme Park, and Levi's® Stadium, home of the San Francisco 49ers and Super Bowl 50. For more information, go to www.SantaClaraCA.gov.

About TAP International

TAP International is a consulting firm that provides performance management evaluation has over 100 years of combined experience conducting performance audits. Principal Consultant [Denise Callahan](#) has an extensive auditing background and has performed performance audits of other convention centers, as well as compliance audits, internal audits and best practices reviews for federal, state and local government agencies. Ms. Callahan has been a lecturer at the University of San Francisco and the University of Southern California. She serves on the Audit Committee for the American Society for Public Administration and has won awards for the quality of completed performance audits.

###