

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** City Manger  
**AGENDA DATE:** Tuesday, January 20, 2009; Regular City Council Agenda under City Manager's report of current events and issues.  
**CONTACT PERSON/PHONE:** David Almonte, Office of Management and Budget (915) 541-4777  
**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

To authorize the City Manager to sign the First Amendment to the Sponsorship Agreement between the City of El Paso and Overtime Sports Southwest, LLC for the City's participation in the Sporting Events Trust Fund administered by the Texas State Comptroller's Office with regard to the Texas vs. Nation Game in 2009.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

Request Council approval of the agreement amendment to allow the City to participate in the Texas Sporting Event Trust Fund for the 2009 game and allow the City Manager to approve all activity to effectuate the amended agreement. Mr. Bill Blaziek, General Manager of the Convention and Visitor's Bureau will be the Contract Manager and assist the firm with all activities involved in the agreement.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

Council approved on October 16, 2007, the resolution to authorize the City Manager to sign a ten-year Sponsorship agreement between the City of El Paso and Overtime Sports Southwest, LLC to annually sponsor the Texas versus the Nation All Star Game.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

This item will be funded through the General Fund and the Hotel Occupancy Tax Fund as budgeted in FY2009.

**BOARD / COMMISSION ACTION:**

**Enter appropriate comments or N/A**

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** David Almonte

(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO**  
**THAT** the City Manager be authorized to sign an First Amendment to Sponsorship Agreement  
by and between the City of El Paso and Overtime Sports Southwest, LLC for the City's  
participation in the Sporting Events Trust Fund administered by the Texas State Comptroller's  
Office with regard to the Texas vs. Nation game.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

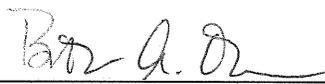
CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
David Almonte, Director  
Office of Management and Budget

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STATE OF TEXAS )  
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COUNTY OF EL PASO )

**FIRST AMENDMENT TO  
SPONSORSHIP AGREEMENT FOR THE  
TEXAS VS THE NATION GAME**

This First Amendment to Sponsorship Agreement for the Texas vs. the Nation Game (this "*Amendment*") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between the City of El Paso, a home rule municipal corporation (the "*City*"), and Overtime Sports Southwest, LLC, a Texas limited liability company (the "*Company*").

**RECITALS**

**WHEREAS**, on October 16, 2007, the City and Company entered into a Sponsorship Agreement (the "*Agreement*") for the Texas vs. the Nation Game, a collegiate, NCAA Division I all-star football game (the "*Game*") at the Sun Bowl Stadium in late January or early February of each year and the City has pledged to participate as a Game Sponsor by providing an annual amount of \$200,000.00 until 2017, subject to the annual appropriation of funds by the City Council;

**WHEREAS**, the Game is a college all-star game matching top collegiate players with ties to the State of Texas (the "*State*") against top collegiate players from around the nation and is nationally televised on the College Sports Television Network ("*CSTV*") and broadcast on radio;

**WHEREAS**, the Game provides the City with numerous opportunities to promote the City of El Paso and generates revenue to the City by increasing utilized hotel rooms, general sales and consumption of beverages and other goods and services, thereby increasing the hotel occupancy, sales and mixed beverage taxes collected by the City and the state;

**WHEREAS**, pursuant to Article 5190.14 of the Vernon's Texas Civil Statutes, the state has created a Sporting Events Trust Fund administered by the Texas State Comptroller's Office (the "*Trust Fund*"), authorizes the City to remit to the Trust Fund the incremental local hotel occupancy, sales and use and mixed beverage tax revenue attributed to a sporting or athletic event and the State to deposit into the Trust Fund a portion of certain incremental state tax revenue in an amount equal to 6.25 times the amount of the remitted local incremental taxes;

**WHEREAS**, the State Comptroller's Office has considered the application for participation in the Trust Fund and has estimated that for the 2009 Game, an amount of \$87,267 of the City's applicable incremental local tax revenues will leverage an amount of \$545,420 in state tax revenues in the Trust Fund for the Game; and

**WHEREAS**, the City and Company desire to amend the Agreement in order to participate in the Trust Fund.

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## A G R E E M E N T

**NOW, THEREFORE**, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

1. Section 1 (Scope of Services) of the Agreement is amended to add paragraph (o) as follows:

o. The Company shall at all times cooperate with the City and provide to the City all of the documentation (including invoices and evidence of payments to vendors for requested reimbursement, etc.) which may be required by the Comptroller's Office or the City in order to submit an application for, request payment from the Trust Fund, or otherwise required to implement this Agreement. Unless required by the State Comptroller for Trust Fund disbursements, Company shall not be required to provide detailed information or documentation of expenses.

2. Section 4 of the Agreement is amended to read as follows:

"4. Compensation. The City hereby agrees to pay the Company TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$200,000) as the sponsorship fee for its right to participate and be named as a Game Sponsor in 2008 and, at the amounts agreed to by the parties and appropriated by the City (at its sole discretion) for each subsequent year ("*Annual Appropriated Funds*") until 2017.

For the 2008 Game and in any year in which the City does not participate in the Trust Fund for that year's Game, this sponsorship fee shall be paid by the City to the Company no later than sixty (60) days prior to the date the Game shall be played.

For the 2009 Game and each year in which the City participates in the Trust Fund for that year's game, the sponsorship fee shall be paid as follows:

a. No later than one hundred and twenty (120) days prior to the date of the Game the City shall submit an application to the State Comptroller's Office so that the Comptroller may determine by the 90<sup>th</sup> day prior to the Game (or such period as may be otherwise prescribed by law or the Comptroller) the estimated state incremental tax and the estimated local incremental tax that is attributable to the Game (the "*Comptroller's Estimated Local Tax*").

b. No later than sixty (60) days prior to the date the Game shall be played, the City shall pay to the Company an amount equal to the Annual Appropriated Funds and the Comptroller's Estimated Local Tax attributable to the Game (the "*First Payment*").

c. No later than ten (10) days following the date of the Game, the City shall remit to the Comptroller the amount of the Comptroller's Estimated Local Tax for deposit into the Trust Fund.

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d. No later than fifteen (15) days following the receipt of the Comptroller's acceptance of the documentation it requires to make a disbursement of the Trust Funds attributable to the Game, pursuant to state law, the City shall provide to the Comptroller written instruction/approval for the disbursement of the funds attributable to the Game in the Trust Fund to the Company minus an amount not to exceed 16% for actual City expenditures relating to the Game or the implementation of this Agreement (the "**Second Payment**").

e. If the total amount of the First Payment and Second Payment is less than the Annual Appropriated Funds, the City shall pay the remainder to Company as a final payment no later than 30 days following the date of the Comptroller's acceptance (the "**Final Payment**").

f. Pursuant to state law, on payment of all state or municipal obligations under this event support Agreement, and provided that the City has paid the total amount of the Annual Appropriated Funds to the Company, any funds remaining in the Trust Fund shall be remitted to the City as the endorsing entity in proportion to the amount contributed by the City and shall be the property of the City.

The parties agree that at no time during the Term of this Agreement shall the total compensation paid annually by City (including payments from the Trust Fund) exceed the amount of the Annual Appropriated Funds for that fiscal year.

3. On or before the date of the execution of this Amendment, the Company shall repay to the City an amount equal to the Estimated Local Tax (\$87,267) from the funds previously disbursed under the Agreement in order to enable the City to deposit the funds to the Comptroller for the Trust Fund following the date of the 2009 Game.

4. The City designates the General Manager of the City's Convention and Visitors Bureau as the Contract Manager for this Agreement and responsible for the day-to-day implementation of the Agreement and coordination with the State Comptroller's Office regarding the Trust Fund.

5. Except as set forth herein, all of the terms and conditions of the Agreement (as set forth in the original document) shall continue to be in full force and effect.

*[Signature page to follow]*

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STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**FIRST AMENDMENT TO  
SPONSORSHIP AGREEMENT FOR THE  
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*(Signature page)*

IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF EL PASO

\_\_\_\_\_  
Joyce Wilson  
City Manager

OVERTIME SPORTS SOUTHWEST, LLC

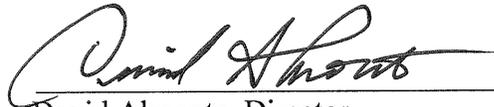
\_\_\_\_\_  
Kenny Hansmire  
Chairman and Chief Executive Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
William Blaziek, Director  
El Paso Convention & Visitors Bureau



\_\_\_\_\_  
David Almonte, Director  
Office of Management & Budget

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