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AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute an Interlocal Funding Agreement between Hays County and the City of San Marcos related to FM110 TRZ Study.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	April 2, 2013	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: BILL HERZOG

REQUESTED BY	SPONSOR	CO-SPONSOR
COBB	COBB	N/A

SUMMARY

The agreement is an effort to mutually receive the results of a Transportation Reinvestment Zone Study related to proposed improvements of FM110 .

FILED: 04 02 13
HAYS COUNTY COMMISSIONERS' COURT
Resolution # 28906 VOL V PG 126

INTERLOCAL FUNDING AGREEMENT FM 110 TRZ STUDY

This Funding Agreement (the "Agreement") is made and entered into to be effective as of February 5, 2013 between Hays County, a political subdivision of the State of Texas (hereinafter "the County"), 712 South Stagecoach Trail, Suite 2057, San Marcos, Texas, 78666 and The City of San Marcos, a Texas Municipality, (hereinafter "the City") in an effort to mutually receive the results of a Transportation Reinvestment Zone ("TRZ") Study related to proposed improvements on Farm to Market Road 110 (hereinafter "FM110"), east of San Marcos, Texas, to be performed by Prime Strategies, Inc., a Texas corporation (hereinafter "Prime Strategies"). County and City may be referred to, collectively, as "the Parties" or "the Parties to this Agreement."

RECITALS

WHEREAS, Prime Strategies, a firm specializing in consulting related to the financing and construction of public infrastructure by local governments, has, in the process of assisting the County with its current Road Bond program, had conversations with representatives of the Texas Department of Transportation (hereinafter "TXDOT") about the construction of an additional phase of FM110 (hereinafter "the Project"); and

WHEREAS, TXDOT has expressed an interest in financing the Project with an expectation of returns from a TRZ, which could be established by the County and/or the City; and

WHEREAS, the City and its citizens would benefit from the Project and the TRZ study that stands as a prerequisite to the Project, as proposed; and

WHEREAS, the County is willing to coordinate local contribution and local staffing for Phase I of the TRZ study, which will be performed by Prime Strategies under the County's existing contract with Prime Strategies; and

WHEREAS, the City wishes to contribute funding not to exceed fifty-five-thousand dollars (\$55,000 USD) toward substantial completion of Phase I of the TRZ Study;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and obligations of the Parties in this Agreement, the County and City agree as follows:

ARTICLE 1 PURPOSE

The purpose of this Agreement is to set forth the terms and conditions under which the City will help provide funding in an amount not to exceed fifty-five-thousand dollars (\$55,000 USD) to the County for partial payment of Phase I of the TRZ Study.

ARTICLE 2
OBLIGATIONS AND FUNDING FROM THE CITY

2.1 The City shall pay to the County a sum not to exceed fifty-five-thousand dollars (\$55,000 USD) in current funds, which, unless otherwise agreed by the City, shall only be applied to Phase I of the TRZ Study that is the subject of this Agreement.

2.2 Under no circumstances will the City be held liable for any amount exceeding fifty-five-thousand dollars (\$55,000 USD) for Phase I of the TRZ Study. Said monies shall be paid out of current funds and shall be due in one lump-sum, cash payment from the City within forty five (45) days of the execution of this Interlocal Funding Agreement. The City agrees that it will not assert or claim against any credit contractually or otherwise believed to be owed by the County as a substitution for the lump-sum, cash payment cited in this Section.

2.3 The Parties agree that the terms and conditions of this Interlocal Funding Agreement shall not obligate the City to participate financially in subsequent phases of the TRZ Study, planning of the Project, or construction of the Project.

ARTICLE 3
OBLIGATIONS OF THE COUNTY

3.1 The County agrees to utilize the funds it receives under this Agreement to pay for expenses related to the completion of Phase I of the TRZ Study and in compliance with all the terms and conditions specified in this Agreement.

3.2 The County shall pursue the steps necessary to achieve substantial completion Phase I of the TRZ Study with reasonable diligence.

3.3 During the Term of this Agreement, the County (through its contractor, Prime Strategies) shall provide to the City quarterly written reports outlining the status of TRZ Study. An estimated schedule including tasks and timeframes to be performed is attached hereto as Exhibit "A" ("Schedule").

ARTICLE 4
TERM AND TIME OF PERFORMANCE

The effective date of this agreement shall be the date last executed by the Parties, below (the "Effective Date"). The term of the Agreement shall continue from the Effective Date until completion of Phase I of the TRZ Study. The obligations of the Parties shall continue during the Term.

ARTICLE 5 SUCCESSORS AND ASSIGNS

The County and the City, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement.

ARTICLE 6 NOTICE

Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests, or communications related to non-compliance issues required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to the County:

Hays County
Attn: County Judge
111 E. San Antonio, Suite 300
San Marcos, Texas 78666

If to the City:

City of San Marcos
Attn: Jim Nuse
630 East Hopkins
San Marcos, Texas 78666

ARTICLE 7 DISPUTE RESOLUTION

7.1 Negotiation. The Parties will attempt in good faith to resolve promptly through negotiation any claim or controversy arising out of or relating to this Contract. If a controversy or claim should arise, the Parties agree to each select a Representative and to have those Representatives meet at least once to attempt in good faith to resolve the dispute. For such purpose, any Party may request the others to meet within ten (10) days, at a mutually-agreed-upon time and place. The Parties shall, within ten (10) days after the Effective Date of this Contract, each designate to the other their respective Representatives, who shall be an executive-level individual with authority to settle disputes. Each of the Parties may change the designation of its Representative, but shall maintain at all times during the term of this Contract a designated Representative and shall ensure that the other Parties are notified of any change in the designation of its Representative.

7.2 Mediation. If the dispute has not been resolved within sixty (60) days after the first meeting of the designated Representatives (or such longer period of time as may be mutually agreed upon), any of the parties may refer the claim or controversy to non-binding mediation conducted by a mutually-agreed-upon party qualified to perform mediation of disputes related to the subject matter of this Agreement (herein referred to as the "Mediator") by sending a written mediation request to the other party. In the event that such a request is made, the Parties agree to participate in the mediation process.

The Parties and the Mediator may join in the mediation any other party necessary for a mutually acceptable resolution of the dispute. Should the Mediator ever be unable or unwilling to continue to serve, the parties shall select a successor Mediator. The mediation procedure shall be determined by the Mediator in consultation with the parties. The fees and expenses of the Mediator shall be borne equally by the parties.

7.3 Litigation. If the dispute is not resolved within thirty (30) days after the commencement of mediation, or if no mediation has been commenced within ninety (90) days after the first meeting between Representatives (or such longer period of time as may be mutually agreed upon), any of the Parties may commence litigation to resolve the dispute in any Texas state court of competent jurisdiction, or in the United States District Court for the Western District of Texas to the extent said Court shall have jurisdiction over the matter.

ARTICLE 8 MISCELLANEOUS

8.1 Entire Agreement. This Agreement represents the entire and integrated agreement between the County and the City and supersedes all prior negotiations, representations or arguments either written or oral.

8.2 Lawful Authority. The execution and performance of this Agreement by the County and the City have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of the County and the City in accordance with its terms.

8.3 Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.

8.4 Construction. The captions and headings contained in this Agreement are solely for convenient reference and will not be deemed to affect the meaning or interpretation of any provision or paragraph hereof. All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. For the purposes of this Agreement, the term "will" is mandatory. Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing such provision, and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.

8.5 Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, ordinance or administrative executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have not legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

8.6 No Waiver. No waiver by the County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

8.7 Public Information Act. City and County are governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this Agreement may be subject to release under this Act.


8.8 Additional Documents. The City and the County covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

8.9 Compliance with Laws. In performing this Agreement, the County will comply with all local, state and federal laws.


8.10 Counterparts. This Agreement has been executed by the parties in multiple originals or counterparts each having full force and effect.

This Interlocal Funding Agreement is hereby EXECUTED on this 2 day of April, 2013.

County of Hays:


By: 
Judge Bert Cobb, M.D.
Hays County Judge

ATTEST:


Liz Q. Gonzalez, Hays County Clerk



The City of San Marcos

By: 
Jim Nuse
City Manager

ATTEST:




By:  Jamie Lee Pettijohn, San Marcos City Clerk

EXHIBIT A

TRZ PHASE ONE

- Identify proposed TRZ boundaries January 4, 2013
- Identify parcels with proposed TRZ January 4, 2013
- Collect five (5) year history of appraised values January 11, 2013
- Review and update CAMPO demographic data February 1, 2013
- Prepare preliminary project construction budgets December 15, 2012
- Establish baseline property values February 20, 2013
- Phase One Report March 8, 2013
 - Possible tax increments
 - Calculate NPV for each increment
 - Compare increment forecast to project budgets
- Present Phase One Report March 12-March 30, 2013

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#39_Phase 1 Schedule.docx