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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

Authorize the County Judge to execute an Interlocal Agreement for On-Line Bidding between the City of San Marcos, the San Marcos Independent School District and Hays County for the purpose of sharing a common vendor database and common location for vendors to find procurement opportunities including, invitations for bids, proposals, quotes, etc. electronically.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	May 21, 2013	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Herzog/Maiorka	Click to Select Sponsor.	N/A

SUMMARY

The parties listed agree to form an On-line Bidding System User Group which is able to register interested bidders, distribute solicitations for bid and proposal documents electronically, notify vendors automatically, and receive bids/proposals using the Advanced Encryption Standard (AES) to ensure that the electronic bids/proposals remain effectively unopened until the advertised time, tabulate, publish and post bid results, and post notices of award. This is being offered at no cost to Hays County and the SMISD by the City of San Marcos. The City of San Marcos will be responsible for hosting and maintaining the on-line bidding system. This is a great endeavor for the three entities because of the shared posting of invitation for bids, requests for proposals and other purchasing activities. It will be beneficial to the taxpayers of the governments through the efficiencies and potential savings realized. It is also a great opportunity for our vendors to find all of our projects in one location. The software is web based. The City of San Marcos will provide Hays County the link and training. (no cost)

**INTERLOCAL COOPERATION AGREEMENT
For On-Line Bidding**

STATE OF TEXAS

COUNTY OF HAYS

The City of San Marcos, Texas (the "City"), the San Marcos Consolidated Independent School District ("SMCISD") and Hays County (the "County"), collectively referred to as the "Parties" enter into this Interlocal Agreement (the "Agreement") each acting by and through their respective governing body under the authority of the Interlocal Cooperation Act (the "Act"), Chapter 791 of the Texas Government Code, as amended.

RECITALS:

WHEREAS, Chapter 791 of the Texas Government Code authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies and services;

WHEREAS, the Parties wish to enter into this Agreement for the purpose of sharing a common vendor database, sharing a common location for vendors to find procurement opportunities including, invitations for bids, proposals, quotes, etc. electronically;

WHEREAS, The Parties represent that they are each independently authorized to perform the functions or services contemplated by this Agreement;

WHEREAS, each Party has sufficient funds available from current revenues to perform the functions contemplated under this Agreement for the initial term. Renewals will be subject to the availability of funding at the time of the renewal in accordance with Paragraph 22;

WHEREAS, it is deemed in the best interest of the Parties to enter into a mutually satisfactory agreement for the shared posting of bids, proposals, and other procurement activity;

WHEREAS, the Parties are of the opinion that cooperation in the shared posting of invitation for bids, requests for proposals, and other purchasing activities will be beneficial to the taxpayers of the governments through the efficiencies and potential savings realized.

NOW THEREFORE, the Parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as follows:

TERMS:

- City's Responsibilities.** The City is responsible for hosting and maintaining an on-line bidding system (the "System") which is able to:

- a) Register interested bidders;
 - b) Distribute solicitations for bid and proposal documents electronically;
 - c) Notify vendors automatically;
 - d) Receive electronic bids/proposals using the Advanced Encryption Standard (“AES”) to ensure that the electronic bids/proposals remain effectively unopened until the advertised time;
 - e) Tabulate and publish bid results; and
 - f) Post notices of award.
2. **Back-ups.** The City’s E-Procurement software provider will conduct regular back-ups of the information maintained on the site.
 3. **Users Group.** The Parties agree to form an On-Line Bidding System User Group (“User Group”) which will consist of the Purchasing Manager, or designee, for each Party. The purpose of the User Group is to meet as necessary to review enhancement requests from any Party to the Agreement and to prioritize and make recommendations regarding the requests for enhancements. The City will consider the recommendations of the User Group and will have final approval authority for the implementation of any recommended enhancement; provided, however, that such approval will not be unreasonably withheld.
 4. **Enhancements.** Costs for approved enhancements will be shared equally by each of the participating Parties regardless of their interest in the enhancement.
 5. **Applicable Laws.** Each Party agrees to comply with all applicable local, state and federal laws, rules and regulations.
 6. **Effective Date and Term.** The term of this Agreement will commence and be effective as of the date of execution by the last Party to sign the Agreement. The Agreement will remain in full force and effect until September 30, 2013. This Agreement will automatically renew for successive one (1) year terms unless terminated by either Party in accordance with the provisions of Paragraph 9 below. The conditions set forth below will apply to the initial term and all renewals.
 7. **Interlocal Cooperation.** The Parties agree to cooperate with each other in good faith at all times during the term of this Agreement in order to achieve the purposes and intent of this Agreement. Each Party to this Agreement acknowledges and represents that this Agreement has been executed by its duly authorized representative.
 8. **Entire Agreement.** This Agreement, including any appendices and attachments represents the entire and integrated agreement between the Parties and supersedes all prior proposals, negotiations, representations, agreements, arrangements, or understandings either written or oral between the Parties. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement will affect or modify any of the terms or obligations hereunder. The terms and conditions of this Agreement may only be amended or modified by written amendment executed by all of the parties. The

City's EProcurement software provider will add the County's and the SMCISD's logo to the City's EProcurement header at the City's request, the cost for each modification will be borne by the entity requesting the modification.

9. **Termination.** This Agreement may be terminated at any time by any Party for convenience and without cause, by giving a thirty (30) calendar day advance written notice to the other Party in accordance with Paragraph 12 herein.
10. **Hold Harmless.** The Parties agree to hold each other harmless from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses of litigation, court costs and attorney's fees, for injury or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with the work done under this Agreement.
11. **Invalidity.** Should any provision in this Agreement be found or deemed to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, this Agreement will be construed as not containing the 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. The Parties will use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties as necessary.
12. **Written Notice.** Unless otherwise specified, written notice will be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

City of San Marcos:

Purchasing Division
City of San Marcos
630 E. Hopkins
San Marcos, Texas 78666

**San Marcos Consolidated
Independent School District:**

Purchasing Department
San Marcos C.I.S.D.
P.O. Box 1087
San Marcos, Texas 78667

Hays County:

County Auditor
Hays County
712 S Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

13. **Applicable Law.** This Agreement is governed by the laws of the State of Texas.
14. **Place of Performance.** Performance and exclusive venue for any dispute arising under this Agreement is in Hays County, Texas.

- 15. **Waiver.** Failure of any Party, at any time, to enforce a provision of this Agreement, will in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of any Party thereafter to enforce each and every provision hereof. No term of this Agreement will be deemed waived or breach excused unless the waiver will be in writing and signed by the Party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
- 16. **Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by any Party without the prior written consent of the other Parties to this Agreement.
- 17. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.
- 18. **Public Information Act.** The Parties understand that they are each 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 the Act.
- 19. **Funding.** The Parties acknowledge that funds for the payment for work performed by any of the Parties under the Agreement have been provided through the budget approved by the individual governing bodies for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The Parties cannot guarantee the availability of funds, and enter into the Agreement only to the extent such funds are made available. The Parties acknowledge and agree that they will have no recourse against another for its failure to appropriate funds for the purposes of the Agreement in any fiscal year other than the year in which the Agreement was executed.
- 20. **Binding Effect.** The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement. This Agreement will take effect immediately upon execution by both parties hereof and will inure to the benefit and be binding upon the administrators, successors and assigns of the parties hereto.

HAYS COUNTY

S.M.C.I.S.D.

BY: _____

BY: _____

Printed Name, Title

Printed Name, Title

DATE: _____

DATE: _____

ATTEST:

ATTEST:

Printed Name, Title

Printed Name, Title

Date: _____

Date: _____

CITY OF SAN MARCOS

BY: _____

Printed Name,/Title

Date: _____

ATTEST:

Printed Name, Title

Date: _____