

9

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

Approve the renewal of the funding agreement between Hays County and the Greater San Marcos Partnership

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	July 30, 2013	\$150,000.00

LINE ITEM NUMBER
001-645-00.5302

AUDITOR USE ONLY

AUDITOR COMMENTS:
Payment not due until FY 2014

PURCHASING GUIDELINES FOLLOWED: N/A AUDITOR REVIEW: BILL HERZOG

REQUESTED BY	SPONSOR	CO-SPONSOR
	CONLEY	N/A

SUMMARY
The original agreement is attached. The contract terminates on Sept 30, 2013 and requires renewal at this time. A renewal agreement will be presented in court.

FUNDING AGREEMENT BETWEEN HAYS COUNTY AND
THE GREATER SAN MARCOS ECONOMIC DEVELOPMENT COUNCIL

Co-wide

001-645-00.5302

STATE OF TEXAS

§

COUNTY OF HAYS

§

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\$150,000

Partners in Progress
Economic Development

SECTION I. PARTIES TO THE CONTRACT

This contract is made and entered into by and between the County of Hays ("County") and the Greater San Marcos Economic Development Council ("Contractor"). The parties hereto have severally and collectively agreed and by execution hereof are bound to the mutual obligations and to the performances and accomplishment of the tasks hereinafter described.

V. 4040

SECTION II. CONTRACTOR PERFORMANCE

In consideration of County's obligations contained herein, Contractor shall:

- 1) Review and provide negotiation services for all incentive requests;
- 2) Assist the County in establishing a County-wide Economic Development Policy and subsequently a County-wide Economic Incentive Program.
- 3) Provide marketing and advertising for business development in Greater San Marcos, which shall include both Hays and Caldwell Counties;
- 4) Develop and maintain a website that provides links to the County and all participating municipalities in Hays County, as well as providing a property search engine for listed properties in Greater San Marcos;
- 5) Provide assistance with expansion and retention of existing businesses in Hays County, as requested by County or participating municipalities;
- 6) Provide support and assistance with economic development grants, or any other available funding sources;
- 7) Allow any municipality within Hays County to participate, by its own request, in general membership activities without requiring that municipality to pay membership fee(s).

SECTION III. CONTRACT PERIOD

The initial period for performance of this contract shall commence October 1, 2010 and shall terminate September 30, 2011.

- see section XVIII - p. 5
Contract auto renews, unless terminated
until 9-30-2013.

SECTION IV. COUNTY OBLIGATION

Notwithstanding any other provision of this contract, the total amount paid by the County to the Contractor under this contract shall not exceed the one-time lump sum payment of One Hundred and Fifty Thousand Dollars (\$150,000 USD) in current funds.

SECTION V. REPORTS

The parties acknowledge that the funds expended under this contract are public funds that must be carefully monitored to ensure proper distribution. The County is legally obligated pursuant to the Texas Constitution to accurately report the manner in which the public funds are expended. Contractor agrees to have an external audit performed and to provide the County with the external auditor's report within a reasonable time of Contractor's receipt of it, and no later than December 31st of any tax year, except by mutual agreement of the Parties.

SECTION VI. COUNTY MONITORING

The Contractor shall permit County to inspect and shall make available to the County for inspection any or all pertinent records, files, information or other written material maintained by Contractor or any person or other entity with whom any portion of the performance hereunder has been subcontracted. The Contractor shall permit County free access to all premises under its control or under the control of any person or entity with whom any portion of the performance hereunder has been subcontracted.

SECTION VII. SUBCONTRACTS

The Contractor, in subcontracting any of the performances hereunder, shall legally bind subcontractors to perform subject to all the duties, requirements, and obligations specified of Contractor herein with respect to such performance or any portions thereof.

In no event shall any provision of this section, specifically including the requirement that the Contractor obtain the prior approval of the County on the Contractor's subcontracts, be construed as relieving Contractor of the responsibility for ensuring that the performance rendered under all subcontracts are rendered so as to comply with all the terms and provisions of this contract as if the performance rendered were rendered by Contractor hereunder.

SECTION VIII. POLITICAL ACTIVITY

None of the performance rendered hereunder shall involve, and no portion of the funds received by the Contractor hereunder shall be used for, any partisan political activity (including, but not limited to, an activity to further the election or defeat of any candidate for public office). This Section shall not be construed to prohibit the Parties from collaborating to address policy-related economic development issues with state and/or federal legislators, as may be needed from time to time.

SECTION IX. CONFLICT OF INTEREST

No official or employee of the County, no employee of the Contractor, no member of the Contractor's governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall participate in any decision relating to this contract which affects his or her personal pecuniary interest.

SECTION X. COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable laws, ordinances, codes and regulations of the state, local and federal governments.

SECTION XI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the County is contracting with the Contractor as an Independent Contractor and that the Contractor, as such, AGREES TO HOLD THE COUNTY HARMLESS AND TO INDEMNIFY IT FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHICH MAY BE ASSERTED BY ANY THIRD PARTY OCCURRING OR IN ANY WAY INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH THE SERVICES TO BE PERFORMED BY THE CONTRACTOR UNDER THIS CONTRACT.

SECTION XII. EQUAL OPPORTUNITY

A. Nondiscrimination

The Contractor assures that no person shall, on the ground of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part under this agreement or otherwise under the Contractor's control.

B. Employment

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth requirements of these nondiscrimination provisions.
- 2) The Contractor will comply with all applicable equal opportunity laws, rules, regulations and orders.

C. Minority and Female Entrepreneurship

Consonant with and in furtherance of equal opportunity under law, the Contractor agrees to consider and make reasonable use of minority-owned and female-owned businesses in the procurement of goods and service, in the use of real or personal property, and in contracting for construction. In all instances, affirmative emphasis will be given to minority-owned and female-owned businesses offering comparable quality and value. The Contractor will similarly require equal opportunity/affirmative action on behalf of minority-owned and female-owned businesses in its financial agreements.

SECTION XIII. ORAL AND WRITTEN AGREEMENTS

Any and all oral or written agreements, relating to the subject matter of this contract and which were made prior to the date of commencement specified in Section IV, between the Contractor and the County have been reduced to writing and are contained herein.

SECTION XIV. AMENDMENTS

Any alterations, additions, or deletions to the terms of this contract shall be in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this contract.

SECTION XV. LEGAL AUTHORITY

- A. The Contractor assures and guarantees that it possesses the legal authority to enter into this contract and to perform the service Contractor has obligated itself to perform under this contract.
- B. The person or persons signing this contract on behalf of the Contractor warrant and guarantee to having been duly authorized by the Contractor to execute with contract on behalf of the Contractor to validly and legally bind Contractor to all terms, performances and provisions herein set forth.
- C. The County shall have the right, at its option, to either temporarily suspend or permanently terminate this contract if there is any dispute as to the legal authority of either the Contractor or the person signing this contract to enter into this contract. Contractor is liable to County for money it has received from the County for performance of the provisions of this contract, if the County has suspended or terminated this contract for the reasons stated in this Section.

SECTION XVI. AUDIT

Owner shall, upon five (5) days' written notice to Contractor, have a right to inspect all receipts, invoices, proofs of purchase, records of employee activity, records of expenditures, and other relevant data related to the Contract. Unless otherwise requested by Contractor, County's inspection shall be performed between the hours of 8 a.m. and 5 p.m., Monday through Friday. Contractor shall ensure that any subcontract executed by Contractor in furtherance of this Contract includes an obligation by subcontractor to turn over, upon written request by Contractor, all receipts, invoices, proofs of purchase, records of employee activity, and records of expenditures related to this Contract. County shall have the same right under this Section to inspect subcontractor materials as it does Contractor materials. This Section shall survive termination of this Contract, and shall remain in effect for five (5) years from the commencement of this Contract.

SECTION XVII. GEOGRAPHIC AND CLIENT COVERAGE

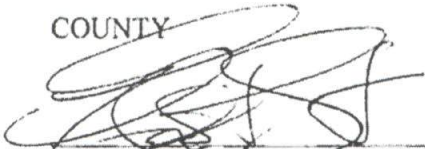
The Contractor shall provide performances under this contract to benefit the citizens or residents of Hays County.

SECTION XVIII. EARLY TERMINATION


- A. Either of the parties hereto shall have the right, in such party's sole discretion and at such party's sole option, to terminate and bring to an end all performances to be rendered under the terms hereof by notifying the other party hereto in writing of such termination at least thirty days prior to the automatic renewal date of this contract. Should neither party exercise their right to terminate, this contract shall terminate September 30, 2013..
- B. Upon termination or receipt of notice to terminate whichever occurs first, the Contractor shall cancel, withdraw or otherwise terminate, any outstanding orders or subcontracts which relate to the performance of this contract and shall otherwise cease to incur costs hereunder.
- C. Amortization of Grant Monies (Liquidated Damages): If Contractor dissolves or otherwise refuses or fails to perform under this Agreement during the first year of the Contract Period, then Contractor shall repay the County one-twelfth (1/12) of the monies received under this contract multiplied by the number of months Contractor's non-performance precedes September 30, 2011. The Parties agree that the calculation of actual damages resulting from Contractor's refusal or failure to perform would be impossible, and that such monies, as liquidated damages, represent a fair and reasonable estimate of the damages that would be suffered by the County under these circumstances.

Accepted and Agreed this the 3 day of November, 2010.


COUNTY


Elizabeth "Liz" Sumter
Hays County Judge

CONTRACTOR


Amy Madison
President - GSMEDC

ATTEST:


Linda Fritsche, Hays County Clerk

