



RESOLUTION NO. 20120925-04

A PROFESSIONAL SERVICES AGREEMENT WITH MCWILLIAMS GOVERNMENTAL AFFAIRS CONSULTANTS

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, TexAmericas Center has a need to acquire a professional services contract to assist in governmental affairs and communication; and

WHEREAS, McWilliams Governmental Affairs Consultants has the necessary experience and expertise to advise TexAmericas Center regarding relevant services; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that the Executive Director/CEO is authorized to enter into a professional services contract with McWilliams Governmental Affairs Consultants to provide governmental communications services in the amount of \$6,000 per month retainer severable with 90 day's notice for a period of October 1, 2012 to September 30, 2013.

PASSED AND APPROVED THIS 25th day of September, 2012



Denis Washington, Chairman of the Board

ATTEST:



Wayne Cranfill, Secretary-Treasurer

Attached: FY13 Professional Service Agreement

CONSULTING SERVICES AGREEMENT

This agreement is made and entered into this 1st day of October 2012 by and between McWilliams Governmental Affairs Consultants, whose principal office is located at 1220 Colorado, Suite 100, Austin, Texas (hereinafter referred to as the "Consultant"), and TexAmericas Center, a political subdivision of the State of Texas, having an office located at 107 Chapel Lane, New Boston, Texas 75570 (hereinafter referred to as "Client").

Whereas, Consultant has offered services to the Client and the Client has determined to purchase such services from Consultant as are described below in accordance with the terms set forth herein.

Now, therefore, in consideration of the foregoing premises, the parties hereby agree as follows:

I. SCOPE OF SERVICES

Consultant hereby agrees to perform the following consulting and government relations services in the State of Texas for the Client:

- a) Consultant will monitor, track and analyze legislation, administrative rules and committee activity as directed by Client. Consultant will provide intelligence-gathering services as directed by the Client. Consultant will promptly report legislative or administrative activity that could affect the Client either positively or adversely.
- b) Consultant will serve as a general strategic resource and assist the Client in developing government relations strategies including, but not limited to, support for grant acquisition from a variety of programs, Texas Military Preparedness Commission interaction and tracking as the Governor's office of Economic Development and Tourism assumes new staff responsibility, intermodal facility development at Lone Star Ammunition Plant in conjunction with the Texas Department of Transportation Comprehensive Development Agreement with Zachry American Infrastructure and the pursuit of data storage opportunities with the City of San Antonio and the Cyber Command.
- c) Consultant will lobby in support or in opposition to legislation, rules, policies or programs that may affect the Client including drafting proposed legislation, appearing as an advocate before members of the executive and legislative branch and presenting information to the legislature or state government.
- d) Consultant will work with trade associations and other entities sharing the Client's interests with, and only with, the express direction of the Client.

I SCOPE OF SERVICES *(continued)*

- e) Consultant will inform the Client about political occurrences in election campaigns significant to the Client's interests.
- f) Consultant will monitor changes in state lobbying and reporting law and advise the Client of those changes in a timely manner.
- g) As appropriate and as mutually agreed by both parties, this Agreement can be amended to allow Consultant to perform such other services as may be in the best interests of the Client.
- h) Consultant will meet with Client representatives at reasonable times and in mutually agreed locations.
- i) Consultant warrants that consultant has or will establish the necessary facilities to enable consultant to carry out the responsibilities listed herein.
- j) Consultant shall not seek, obtain, or disclose to the Client any information considered by a third party to be proprietary and/or confidential to that third party, except as otherwise agreed by that third party.
- k) In conformity with the provision in the Section below entitled "Conflict of Interest", Consultant hereby represents that she has not, and agrees that she will not during the term of this Agreement, without prior written consent of the Client, enter into any agreements to represent in any manner or capacity other entities in a similar capacity to that described herein relating to the subject matter of this Agreement.

II. CONFLICT OF INTEREST

The parties hereby recognize and acknowledge that, pursuant to the laws of the State of Texas, a registered lobbyist may represent multiple clients with the client's consent after disclosure and consideration of the possible effects of that representation on the Consultant's professional judgment. Pursuant to said laws, Consultant hereby confirms, and the Client hereby acknowledges that Consultant does not currently represent any clients that would constitute a conflict of interest to the work contemplated to be performed by Consultant hereunder.

III. TERMS, WARRANTIES AND REPRESENTATIONS

Consultant agrees to the following terms and makes the following warranties:

- a) Consultant will perform all duties in a timely and professional manner and will abide by all state laws. Consultant will engage in no illegal or unethical activities when engaged in activities on behalf of the Client.
- b) Consultant will comply with all applicable federal, state and local laws including those governing gifts and political contributions.
- c) If Consultant's activities warrant registration under Chapter 305 of the Texas Government Code, Consultant will properly register and maintain registration throughout the duration of this Agreement. Consultant will fully comply with all legal requirements necessary to perform lobbying and government relations services for the Client. Consultant shall provide to client a copy of its registration under Section 305.026, Texas Government Code.

IV. REGISTRATION AND REPORTING

If applicable, Consultant is responsible for registering and filing all reports with federal, state and local governments which may be required by law or regulation in connection with Consultant's activities on behalf of the Client. Such reports must be filed in an accurate and timely manner at Consultant's expense. To the extent Client must file any similar reports, Consultant will provide all necessary information and assistance to the Client, in a timely manner, to enable the Client to comply with this filing and registration requirements.

V. COMPENSATION, CONSIDERATION AND TERM OF CONTRACT

- a) In consideration for the services provided, the Client will pay Consultant a monthly sum of \$6000 per month for services commencing the 1st day of October 2012 through the 30th day of September 2013.
- b) Consultant shall submit monthly invoices no later than the second Monday following the month for which the invoice is submitted.
- c) The Client will not pay any additional expenses unless agreed to by a representative of the Client.
- d) The term of this agreement shall be for a period of 12 months, ending the 30th day of September 2013. However, upon mutual agreement of both parties, this agreement may be cancelled at any time with 90 days written notice.

VI. CLIENT CONFIDENTIAL INFORMATION

Consultant agrees for herself and on behalf of all employees and agents of Client, that with respect to any data, documents or other writings supplied by the Client to Consultant and identified as proprietary or confidential information (hereinafter referred to as "Confidential Information"):

- a) To use such Confidential Information only in Consultant's performance under this Agreement;

- b) Not to make copies of such Confidential Information or any part thereof without the written permission of the Client;
- c) Not to disclose any such Confidential Information or any part thereof to others for any purpose;
- d) To limit dissemination of such Confidential Information to persons within Consultant's employ who are directly involved in Consultant's performance under this Agreement and have a need to use such Confidential Information for purposes of such performance only; and
- e) To return such Confidential Information and any copies thereof to the Client at the completion of all services under this Agreement or at such earlier date as the Client may designate.

Confidential Information shall include, but is not limited to, all written documentation which is required to be delivered under this Agreement or which is delivered pursuant to the Agreement.

VII. CORRUPT GIFTS AND THE PAYMENT OF COMMISSION

Consultant shall not offer or give or agree to give any person employed by Client, or any official or employee of the State of Texas, any gift, commission, rebate or consideration of any kind as inducement or reward for doing, influencing or carrying out any act or for showing any favor or disfavor to any person or persons in relation to the Consultant's actions on behalf of Client under this Agreement. Breach of this Section may render the Consultant, and/or agents liable to punishment by law.

VIII. PUBLIC RELEASE OF INFORMATION

Consultant shall obtain the prior written approval of the Client concerning the content and timing of news releases, articles, brochures, advertisements, speeches and other information releases concerning the work performed or to be performed hereunder by Consultant. Consultant agrees to give the Client reasonable advance time for review of any materials submitted to the Client for approval.

IX. NATURE OF PROFESSIONAL RELATIONSHIP

Consultant is an independent contractor and the Agreement shall not be construed or interpreted to create an association, partnership, joint venture, relation of principal and agent or employer and employee between the Client and Consultant within the meaning of federal, state or local law. Consultant shall not enter into any agreement, oral or written, on behalf of the Client without the express written approval of the Client.

X. LIMITATION ON LIABILITY

EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY CONSULTANT, IN NO EVENT WILL THE CONSULTANT BE LIABLE FOR SPECIAL, COLLATERAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF GOODWILL, LOSS OF PROFITS OR REVENUES, LOSS OF SAVINGS, LOSS OF USE, INTERRUPTIONS OF BUSINESS, AND CLAIMS OF CUSTOMERS).


EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY CONSULTANT, CONSULTANT'S TOTAL AGGREGATE CONTRACTUAL OR TORTIOUS LIABILITY OWING TO CLIENT UNDER THIS AGREEMENT, INCLUDING LIABILITIES OF WHATSOEVER NATURE AND HOWSOEVER ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR AT LAW SHALL IN NO CIRCUMSTANCE EXCEED THE AMOUNT PAID TO CONSULTANT BY CLIENT FOR THE SERVICES TO BE PERFORMED HEREUNDER.

XI. GENERAL


- a) Consultant agrees that the work performed under this Agreement, including the services provided, shall comply with all applicable permits and licenses and the requirements of all applicable laws, regulations and standards.
- b) Consultant shall not assign or delegate this Agreement or any of its rights, duties or obligations thereunder to any person or entity without prior written approval of the Client.
- c) The terms of this Agreement constitute the final and entire agreement between the parties and no prior or contemporaneous representations, expressions or agreements, either written or oral, shall vary or supplement the terms of this Agreement. The terms of this Agreement shall not be supplemented or contradicted by course of dealing, usage of trade or course of performance under this or other contracts.
- d) Amendments to the Agreement shall be in writing and signed by both Parties.

In witness whereof, the parties hereto have affixed their signatures on the date(s) specified below.

**TexAmericas Center
(Client)**

By 
William V. Cork
Executive Director/CEO
Date 9/25/12

**McWilliams Governmental Affairs
(Consultant)**

By 
Title Principal
Date 9/28/12