



RESOLUTION NO. 20120925-05

A CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITH JERRY V. SPARKS

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 for support for economic development services including but not limited to providing responses to prospective developers and support for initial project development activities; and

WHEREAS, Jerry V. Sparks has many year's experience in handling economic development projects and assisting in the support for project development opportunities in Northeast Texas and the State of Arkansas; and

WHEREAS, TexAmericas Center and Jerry V. Sparks have negotiated the terms of a contract for his services;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that the Executive Director/CEO shall be and he is hereby authorized to execute a contract with Jerry V. Sparks for economic development services upon the terms of agreement attached hereto.

PASSED AND APPROVED THIS 25th day of September, 2012.



Denis Washington, Chairman of the Board

ATTEST:



Wayne Cranfill, Secretary-Treasurer

Attached: FY13 Professional Services Agreement

CONTRACT FOR SERVICES

1. Names

This agreement is between TexAmericas Center (TAC), a political subdivision of the State of Texas, (Client), and Jerry V. Sparks (Contractor).

2. Services to be performed

Contractor agrees to perform a broad range of economic development, marketing and business development services for the Client as may be agreed to from time to time between the Contractor and Client. Such services may include but shall not be limited to:

- 1) Continue development of TexAmericas Center' global brand through coordination with TAC's staff and marketing consultants.
- 2) Serve as the coordinator and proposal development lead for Prospect response, particularly as proposal opportunities arise through the State of Texas referral system.
- 3) Represent TAC various economic development functions, meetings and conferences as may be directed by TAC CEO. Contractors shall keep Client informed on all relevant information and leads, to include preparation of necessary trip reports to provide detail.
- 4) Serve as a public advocate for TAC positions at various local public meetings, unless doing so would pose a conflict with other obligations. It is understood that Contractor is not an agent of TAC and shall not bind the organization to a particular policy of financial commitment.
- 5) Keep Client apprised of any and all situations that would need TAC direct involvement.
- 6) Other projects, meetings, or travel as assigned and approved by Client.

3. Performance

Contractor will perform the services in a timely fashion and provide reports no less than monthly, through which Contractor shall provide detailed support for all hourly billings. Contractor shall devote the time that is reasonably necessary for satisfactory performance of Contractor's services required by this Agreement.

4. Compensation

Client will pay Contractor as follows: \$500 per month for the first 10 hours and \$40 per hour for all remaining hours each month.

5. Terms of Payment

Contractor will submit invoices every 30 days to Client for all services performed and expenses incurred. Client shall pay Contractor within 15 days from the date of receipt of Contractor's invoice.

6. Limited Liability

This provision allocates the risks under this Agreement between Contractor and Client. Contractor's pricing reflects the allocation of risk and limitation of liability specified below.

- (a) Contractor's total liability to Client under this Agreement for damages, costs and expenses shall not exceed the compensation received by Contractor under this Agreement. However, Contractor shall remain liable for bodily injury or personal property damage resulting from grossly negligent or willful actions of Contractor, or Contractor's employees or agents, while on Client's premises to the extent such actions or omissions were not caused by Client.
- (b) Client's liability to Contractor under this Agreement shall not exceed the actual compensation for services rendered as provided in paragraph 4 and reimbursement of expenses as provided in paragraph 8.
- (c) NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE FOR THE OTHER'S LOST PROFITS, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF SUCH DAMAGES.

7. Equipment and Supplies

Contractor, at Contractor's expense, will provide all equipment, tools and supplies necessary to perform the contractual services, unless otherwise agreed to by the Parties in advance.

8. Travel and Incidental Expenses

Contractor will be responsible for all expenses required for the performance of the contractual services, except for the following, which will be paid for by Client: Client will reimburse contractor for actual travel expenses including airfare, mileage, overnight accommodations, meals during travel, fees, registration for conferences and meetings and other expenses associated with out-of-town travel on behalf of client. Client will reimburse contractor for time spent in travel at the rate of \$300 per day. Contractor shall submit an itemized statement of these expenses. Out of town travel and attendance at conferences must be approved in advance by Client.

9. Terminating the Agreement

This agreement will become effective when signed by both parties and will terminate on the earlier of the date of September 30, 2013 or the date a party terminates the Agreement as provided below.

- (a) For reasonable cause, either party may terminate this Agreement effective immediately by giving written notice of termination for cause. Reasonable cause includes:
 - A material violation of this Agreement, or
 - Client's failure to pay Contractor's fees as provided in this agreement, where Contractor has demanded payment, in writing, and has not received payment at least 20 days after the date that such demand was sent to Client.
- (b) Either party may terminate this Agreement at any time by giving 30 days written notice of termination.
- (c) Contractor shall be entitled to full payment for services performed and expenses incurred prior to the date this Agreement is terminated.

10. Independent Contractor Status

(a) The parties intend Contractor to be an independent contractor in the performance of the services. Contractor and Client agree to the following rights consistent with an independent contractor relationship.

- Contractor will have the right to control and determine the methods and means of performing the contractual services.
- Contractor has the right to perform services for others during the term of this Agreement.
- Contractor has the right to hire assistants as subcontractors, or to use employees, to assist Contractor in providing the services required by this Agreement.
- Client shall not require Contractor or Contractor's employees or subcontractors to devote full time to performing the services required by this Agreement.
- Neither Contractor nor Contractor's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of Client.

11. State and Federal Taxes

Client will not:

- (a) Withhold Social Security and Medicare taxes from Contractor's payments or make such tax payments on Contractor's behalf, or
- (b) Withhold state or federal income tax from Contractor's payments or make state or federal unemployment contributions on Contractor's behalf.

Contractor will pay all applicable taxes related to the performance of services under this contract. This includes income, Social Security, Medicare and self-employment taxes. Contractor will also pay any unemployment contributions related to the performance of services under this contract

If Contractor is required to pay any federal, state or local sales, use, property or value added taxes based on the services provided under this Agreement, the taxes shall be separately billed to Client. Client shall be responsible for paying any interest or penalties incurred due to late payment or nonpayment of any taxes by Client.

12. Disputes

If a dispute arises, the parties will try in good faith to settle it through mediation conducted by a mediator to be mutually selected. The parties will share the costs of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach a mutually satisfactory compromise to the dispute. If the dispute is not resolved within 30 days after it is referred to the mediator, either party may take the matter to court in Bowie County, Texas.

13. No Partnership

This Agreement does not create a partnership relationship. Neither party has authority to enter into contracts on the other's behalf.

14. Entire Agreement

This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings.

15. Successors and Assignees

This agreement binds and benefits the heirs, successors and assignees of the parties; provided, however, Contractor may not assign this Agreement without the written consent of Client.

16. Notices

All notices must be in writing and is effective upon receipt. A notice may be delivered to a party at the address that follows a party's signature or to a new address that a party designates in writing. A notice may be delivered:

- In person
- By certified mail,
- By overnight courier,
- By facsimile,
- By electronic mail.

17. Governing Law

This agreement will be governed by and construed in accordance with the laws of the State of Texas.

18. Counterparts

This agreement may be signed by the parties in different counterparts and the signature pages combined will create a document binding on all parties.

19. Modification

This agreement may be modified only by a written agreement signed by the parties.

20. Waiver

If one party waives any term or provision of this agreement at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this agreement, that party retains the right to enforce that term or provision at a later time.

21. Severability

If any court determines that any provision of this agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this agreement invalid or unenforceable and such provision shall be modified, amended or limited only to the extent necessary to render it valid and enforceable.

CLIENT

TexAmericas Center

Dated: 9/25/12

By: William V. Cork

William V. Cork, Executive Director/CEO
107 Chapel Lane
New Boston, Texas 75570
Phone: 903-223-9841
Facsimile: 903-223-8742
Electronic Mail: bill.cork@texamericascenter.com

CONTRACTOR

Mr. Jerry Sparks

Dated: 26 Sept 12

By: Jerry Sparks

Jerry Sparks
3610 Potomac Avenue
Texarkana, Texas 75503-3520
Taxpayer ID: 75-2880047
Facsimile: _____
Electronic Mail: _____