

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

Consulting Contract Agreement

THIS AGREEMENT made and entered into this, the 1st day of July 2020, by and between the Asheville Area Chamber of Commerce, Inc., a North Carolina nonprofit corporation (hereinafter referred to as "Consultant") and Haywood County, a body politic and corporate (hereinafter referred to as "County");

WITNESSETH:

WHEREAS, the Consultant is, pursuant to a separate agreement, charged with the responsibility of administering the duties of economic development efforts in an efficient and economical basis within Buncombe County; and

WHEREAS, the County is charged with the responsibility of administering the monies and duties of economic development efforts in an efficient and economical basis within Haywood County, North Carolina; and

WHEREAS, for the past three years, the County has held an ongoing contractual relationship, via the Haywood Chamber of Commerce, with the Consultant with the idea of utilizing the years of strategic effort, infrastructure and additional resources to begin a partnership around marketing Haywood County for business development and recruitment; and

WHEREAS, County has been extremely satisfied with the investment made during the last three years with the Consultant, as shown through increased interest and site visits within Haywood County for economic development purposes; and

WHEREAS, the Consultant has provided 76 leads with potential investment projects of \$2.3 billion and over 17,400 potential jobs with 28 site meetings and Haywood County becoming a finalist on 3 projects; and

WHEREAS, County and Haywood County Chamber of Commerce have renewed their Agreement for three years to solidify their strategic partnership and County enjoys the beneficial relationship with the Consultant and the Haywood County Chamber of Commerce; and

WHEREAS, the economic development department of the Asheville Area Chamber of Commerce was awarded the designation of Accredited Economic Development Organization standing by IEDC and is one of only 63 in the world; and

WHEREAS, the worldwide pandemic and economic downturn have shown the need for long-term partnerships to provide stability and greater marketability; and

WHEREAS, the parties to became leaders in the state in promoting regional cooperation and effective leadership in the regional economy and wish to continue their partnership;

NOW THEREFORE, with mutual consideration, undertakings and covenants as stated hereinafter, the parties hereto agree as follows:

- 1) The Consultant shall carry out and perform the following services on behalf of the County:
 - a. The County will have direct access to the High Growth Entrepreneurship System (separate from small business) built through Venture Asheville - a sub-brand of the Consultant.
 - b. The County will have direct access to public policy staff and advocacy around individual project needs and regional issues in common.
 - c. The Consultant will share project leads with the County, as analyzed by Consultant's Senior Vice President of Economic Development and considered suitable for property available in Haywood County.
 - d. The Consultant will include Haywood County properties in its online marketing tools and website.
 - e. The Consultant will include Haywood County properties in 4-6 market visits per year, wherein Consultant's economic development team will meet with an estimated 10-15 site selection specialists per visit.
 - f. The Consultant will utilize its long-established search engine optimization (SEO) platform to include Haywood County sites and buildings.
 - g. The Consultant will adapt its current project management system and reporting to include Haywood County sites and buildings.
 - h. The Consultant will provide assistance to the County on an advisory basis when Request for Proposals by interested companies are received by the County.
 - i. The Consultant will provide templates for research and site information documents to help promote Haywood County. County will utilize local expertise and staff or representatives to collect the data and information needed to fill those templates.
 - j. The Consultant will provide monthly reports on deal flow, sales pipelines and highlights of project activity for County's usage. Consultant will meet with boards as requested and provide an overview on projects, economic development efforts and other information as needed.
 - k. The Consultant will provide project management services, County relations and site visit coordination in coordination with leadership of Greater Haywood County Chamber and Haywood County Government.
- 2) Upon approval, the parties hereby agree that this Agreement shall be in effect for three fiscal years beginning on July 1, 2020 and ending on June 30, 2023.
- 3) The County will compensate the Consultant \$100,000.00 per fiscal year, for three (3) years, beginning on or before August 15, 2020 and on or before January 15, 2021, on a semi-annual basis in increments of \$50,000.00 and likewise for subsequent years until June 30, 2023.
- 4) The parties agree that this Agreement shall thereafter be on-going on a yearly basis, unless stated separately in writing, and with six (6) months' notice prior to termination.

- 5) Expenses related to hosting potential companies and businesses specific to Haywood County would be in addition to the annual consulting fee.
- 6) Expenses related to the production of materials relating to marketing and site information, outside the parameters of Section 1 above, specific to Haywood County, as approved by the County Manager and Program Administrator, are in addition to the annual consulting fee.
- 7) The parties stipulate that this Agreement supersedes the prior agreement between the parties and the Greater Haywood Chamber of Commerce, originally effective January 1, 2017 to present and attached hereto as Appendix A.
- 8) If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall remain valid and enforceable to the fullest extent permitted by law.
- 9) Each party represents to the other party that it has: (a) fully read and understood the terms of this Agreement, (b) had the opportunity to seek the assistance of its own legal advisor regarding this Agreement and its terms, (c) full legal authority to enter into this Agreement and has taken all necessary legal steps to obtain such authority, (d) equally participated in the negotiation and drafting of this Agreement, and (e) not relied upon any statement, representation or warranty not contained in this Agreement and/or the exhibits attached hereto.
- 10) This Agreement, including the attached exhibits listed herein, constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be modified, amended or rescinded except by a written agreement signed by both parties. No oral agreements, representations or warranties have been made and/or relied upon.


IN WITNESS THEREOF, the Consultant and County have executed this Agreement by their respective duly authorized officers, as of the day and year first written above.

ASHEVILLE AREA
CHAMBER OF COMMERCE, INC.



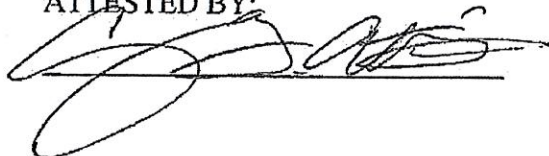
Kit Cramer, President

HAYWOOD COUNTY
BOARD OF COMMISSIONERS



Chair, Board of Commissioners - L. Kevin Ensley

ATTESTED BY:



ATTESTED BY:



Tracy L. Wells
Clerk to the Board
Haywood County Board of Commissioners

ADDITIONAL HAYWOOD COUNTY CONTRACT TERMS/CONDITIONS AND SIGNATURE PAGE

NON APPROPRIATION

If funds are not appropriated during the term of this Agreement for this agreement, and there are no other available funds with which payment can be made, this agreement is terminated on the last day of the fiscal period for which appropriations were received without penalty or expense.

IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S. Chapter 147, Article 6E

As of the date listed below, the vendor or bidder listed below is not listed on the Final Divestment List created by the State Treasurer pursuant to the applicable provisions of Chapter 147, Article 6E of the N.C.G.S. The undersigned certifies that he or she is authorized by the vendor or bidder listed below to make the foregoing statement.

NOTE: N.C.G.S Chapter 147, Article 6E requires this certification for bids or contracts with the various governmental entities of North Carolina, including counties. The certification is required when a bid is submitted, when a contract is entered into, and when a contract is renewed or assigned. No vendor may utilize any subcontractor found on the State Treasurer's Final Divestment List. The List is updated every 180 days, and can be found at www.nctreasurer.com/iran

NORTH CAROLINA E-VERIFY CERTIFICATION

APPLICABILITY: Pursuant to North Carolina General Statute 64-25, the certification is applicable for all contracts entered into by Haywood County, except contracts solely for the purchase of goods, apparatus, supplies, materials, equipment, or contracts with specific other entities as described in N.C.G.S. §143-133.3, piggy-back contracts, and travel purchases.

CERTIFICATION: By signing and entering into this contract with Haywood County, I hereby certify that I comply with E-Verify, the Federal program used to verify the work authorization of newly hired employees. I certify compliance with the E-Verification program pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes. If applicable, I am also certifying that any subcontractor hired or used by me will comply with E-Verify.

ADA AND CIVIL RIGHTS CERTIFICATION OF COMPLIANCE

I hereby certify that I comply with all applicable federal civil rights laws, including the applicable provisions of the Americans with Disabilities Act

UNIFORM GUIDANCE ("UG") REQUIRED CONTRACT PROVISIONS

Uniform Guidance ("UG") is a set of uniform standards for contracts involving the award/expenditure of certain federal monies. If the UG requirements are not applicable, the UG provisions do not apply, unless specifically stated so in the contract.

NOTE: BY SIGNING THE HAYWOOD COUNTY SIGNATURE PAGE, YOU AGREE TO FOLLOW THE ATTACHED TERMS AND CONDITIONS, TO THE EXTENT THAT SUCH PROVISIONS ARE APPLICABLE.

VENDOR

Vendor Name: Asheville Area Chamber of Commerce
By: Kit Kramer Title: PRESIDENT : CEO
Date: July 13, 2020

HAYWOOD COUNTY

By: Bryant Moshier
County Manager
Date: 07/21/2020

ATTEST:

Tracy L. Wells
Clerk to the Board/Deputy Clerk to the Board

APPROVED AS TO FORM:

Frank Queen
County Attorney

This Instrument has been pre-audited in the manner required by the Local Government Budget Act.

Julie H. Davis
Finance Director

Uniform Guidance ("UG") Required Contract Provisions

APPLICABILITY: UG is a set of uniform standards for award and expenditure of federal financial assistance, and applies to the purchase of apparatus, supplies, equipment, materials, services, construction and repair, and engineering/architectural services. See 2 CFR Part 200. Provided that these standards are applicable to you, by signing this signature page, you are certifying that your organization meets these requirements and that this certification, with the statutory references incorporated into each certification, on its face constitutes the "provision for compliance" for any paragraphs requiring such provision or other similar required statement, terms, or requirements. Haywood County is also required to be bound by such provisions. As the UG requires that any more stringent state law or local ordinance/policy supersedes these certifications, such state or local contractual references supersedes the requirements below, to the extent that the state or local provisions are more stringent than the federal requirements.

If the service provided under the contract is not covered by the UG, signing the contract signature page will not bind the parties to these requirements, unless if specified in the contract. See generally <https://www.ecfr.gov/cgi-bin/text-id.x?SID=04e61f4e0a8317140a9ec150bb2ac195&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200.1521.ii>

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Ex. Order 11375, "Amending Ex. Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Cope land "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of

\$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Ex. Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Ex. Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Ex. Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

§200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]