

From: Sara Allen
Sent: Wednesday, May 24, 2023 1:59 PM
To: Rick Schroder <rschroder@johnsoncitytx.org>
Subject: Re: City Council Meeting Follow Up

Rick,

Please see the attached revised Marketing Budget for the current fiscal year per Council's request.

Best regards,

Sara Allen
Founder & CEO
Deep Roots Small Business Services



DEEP ROOTS
SMALL BUSINESS SERVICES

Branding	Developing a distinctive brand package		\$ 15,000.00	\$ 15,000.00
Social/Web	Website Upgrade & Social Media Channel Upgrade	Set up New Domain & Website, Redirect existing domains	\$ 15,000.00	
		Event Calendar / Landing Page	\$ 5,000.00	\$ 32,500.00
		Hotel & Lodging Search	\$ 7,500.00	
		Limited Sample Itineraries	\$ 5,000.00	
Marketing Collateral	Maps: Creating both print & digital maps City Event Signage		\$ 10,000.00	\$ 12,500.00
			\$ 2,500.00	
Total			\$ 60,000.00	\$ 60,000.00

**PROFESSIONAL SERVICES AGREEMENT
FOR MARKETING SERVICES
BETWEEN
DEEP ROOTS SMALL BUSINESS SERVICES AND
THE CITY OF JOHNSON CITY, TEXAS**

This Professional Services Agreement for Marketing Services (“Agreement”) is entered into by and between the City of Johnson City, Texas (“City”) and Deep Roots Small Business Services (“Consultant”), individually the “Party”, collectively the “Parties”.

Whereas, Texas Tax Code Section 351.101 provides for the expenditure of hotel occupancy taxes by a city to promote tourism and the convention and hotel industry in a city; and

Whereas, the City desires to develop a destination brand and strategic marketing campaign to promote and enhance tourism in the City in accordance with state law; and

Whereas, the City issued a request for proposal and upon review of proposals submitted, desires to obtain the marketing services of Consultant, and Consultant agrees to provide said services pursuant to this Agreement.

Now therefore, in consideration of the mutual agreements and covenants set forth herein, the Parties agree as follows:

- 1. Scope of Services.** Consultant’s services shall encompass the following:
 - a. Develop a marketing campaign to promote the City as not only an overnight destination, but also a year-round leisure tourism destination;
 - b. Design and implement advertising campaigns with regional, state, and national coverage featuring the City as an attractive tourism location;
 - c. Create and develop strategic marketing campaigns consisting of digital, social, and print media;
 - d. Create and develop a brand identity including, but not limited to, a brand guide;
 - e. Create marketing promotions to support local events which draw and create overnight visitors;
 - f. Develop content for website pages and materials on the City’s website; and
 - g. Promote the Visitor Information Center as a point of contact for inquiries and information to attract visitors to the City’s lodging facilities.
- 2. Effective Date; Term.** This Agreement shall be effective upon the latest date of its execution by the Parties, and shall continue for one year unless terminated sooner as provided herein. The City may, at its discretion, extend or renew this Agreement for additional three

(3) one (1) year terms upon approval by City Council. Any extension is subject to and contingent upon the annual fiscal year budget appropriation by the City Council.

3. Production of Services.

a. Consultant shall perform and complete all necessary evaluation, design, and related functions required as outlined in the City's *Request for Qualifications/Proposals Marketing/Creative/Media Buying/Public Relations Services* attached hereto as "Exhibit A" and incorporated fully herein, ("RFQ").

b. Consultant shall produce, subject to the approval of the City as provided below, the following deliverables at the rates indicated:

▪ **Phase One**

- Details to be determined.
- Consultant shall attend a minimum of two (2) City Council public meetings and present progress and status updates.
- Consultant shall be available and participate in any public involvement activities related to this Agreement.

▪ **Phase Two**

- Details to be determined.
- Consultant shall attend a minimum of two (2) City Council public meetings and present progress and status updates.
- Consultant shall be available and participate in any public involvement activities related to this Agreement.

▪ **Phase Three**

- Details to be determined.
- Consultant shall attend a minimum of one (1) City Council public meeting and present progress and status updates.
- Consultant shall be available and participate in any public involvement activities related to this Agreement.

c. Prior to implementation of any Phase outline above, Consultant shall submit completed proposed marketing campaigns, *e.g.*, hard copy and digital forms, to the City for review and approval as provided below. The City shall decide whether to issue a Notice to Proceed letter. Consultant shall not perform any work without a Notice authorizing such work. Any work

performed by Consultant prior to receipt of a Notice to Proceed letter shall not be paid for by the City.

4. Service Performance Criteria and Standards

a. Consultant shall conduct all evaluation, design, and related functions required for the development of a brand identity in accordance with City approved specifications and standards as contained in the City's RFQ.

b. Consultant shall be responsible for the completeness and accuracy of all designs, drawings, and specifications submitted by or through the Consultant, including their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

c. All design work by Consultant shall be complete and include all components necessary to function properly in electronic, paper, and/or other pertinent medias.

d. Consultant's work shall comply with all applicable state, local, and federal standards for marketing and public relations services.

e. Consultant shall exercise a degree of care and diligence in the performance of all services under this Agreement and shall perform all responsibilities under the standard of care and skill ordinarily exercised by members of the public relations and marketing profession performing similar services. Consultant's services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Project.

f. Review and Approval. All work by Consultant shall be performed to the satisfaction of the City. Any services or products not accepted by the City due to nonconformance with these requirements must be corrected or reworked by Consultant at no charge to the City. Failure by Consultant to produce and provide acceptable and suitable services or products in accord with this Agreement shall serve as ground for termination of this Agreement. Determination of acceptance by the City is final, binding, and conclusive. Final acceptance and approval by the City shall be in writing.

5. Compensation; Payment; Fees and Costs.

a. The total compensation amount for services shall be a lump sum fee not to exceed \$_____ for the term of this Agreement. Consultant shall be responsible for payroll and related taxes.

b. Consultant shall submit a detailed monthly invoice itemizing services performed to the City, and City shall remit payment within thirty (30) days of receipt payable to Consultant at the respective address provided herein.

c. The total cost of projects within Phases One, Two, and Three do not include photography, print costs, or ad placement.

d. No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by the City unless approved by the City pursuant to a duly authorized change order. The Parties agree that all compensable expenses of Consultant have been provided for in the total compensation to Consultant, as specified above. Total payments to Consultant cannot exceed that amount without written prior approval and agreement of the Parties and City Council.

6. Insurance.

a. Consultant shall procure and maintain, at its expense, for the term of this Agreement vehicular, operational, professional, and contractual liability insurance with a company authorized to transact business in the State of Texas.

b. Said insurance shall be in amounts as follows:

1) Commercial General Liability insurance with limits of not less than \$2,000,000 general aggregate limit and \$1,000,000 each occurrence, combined single limit;

2) Professional liability errors and omissions: not less than \$1,000,000 each claim/annual aggregate;

3) Workers Compensation at statutory requirements.

c. The certificates of insurance shall name the City as Additional Insureds and shall also contain a statement requiring a minimum of thirty (30) days advance written notice of cancellation, non-renewal, or material restriction of coverage terms or limits, to be provided to the City from the insurance company by signed receipt delivery at the address listed herein.

d. Consultant shall provide evidence of insurability to the City prior to provision of services.

7. Ownership; Documents.

a. All writings, documents, drawings and photographs, information and/or source files in whatsoever form and character produced by Consultant pursuant to the Agreement shall be the exclusive property of the City and no such writings, documents, information, or source files shall be subject to any copyright, trade marking, or proprietary claim by Consultant. Consultant understands and acknowledges that, the City, as the exclusive owner of any such writings, documents, information, and source files, has the right to use all such writings, documents, information, and source files as the City desires without restriction.

b. Consultant shall maintain all documents and shall retain said documents for a period of ten years after termination of this Agreement. Consultant shall provide electronic files or documents to the City upon request and at no additional cost to the City.

c. Reproductions of such records, information, materials, and other work products in whole or in part may not be used for any other purpose outside of this Agreement by Consultant.

d. Public requests for documents made to Consultant shall be referred to the City for processing and disposition.

e. This obligation shall survive termination of this Agreement.

8. Independent Contractor; No Joint Venture or Third-Party Rights. Consultant is an independent contractor and shall not be considered an employee or agent of the City. Consultant shall be responsible for the acts and omissions of its employees and/or subcontractors. This Agreement shall not be deemed or construed by the Parties or by any third person to create the relationship of principal and agent, partnership, joint venture, or any other association between the Parties, other than the relationship described herein. This Agreement is not intended to confer any, rights, privileges, or causes of action upon any third party. The City shall not be obligated or liable under this Agreement to any party, other than to the Consultant, for the payment of any monies or the provision of any goods or services.

9. Social Media and Website Policy. Consultant understands that for this project, while considered an independent contractor, Consultant in its duties as a city promoter serves as a representative of the City. As such, Consultant agrees to abide by the following rules of conduct regarding the use of social media and websites and relating to the City and City business:

a. In postings on social media accounts or websites, Consultant shall state clearly that “the views expressed on this site are Consultant’s (name of affiliated individual) personal views only, and they do not reflect the views of the City of Johnson City, its staff, or its officials.” This statement shall be placed as a disclaimer and should be included along with any post that would otherwise violate this section;

b. Consultant’s personal social media accounts or websites may not be designated in a way that would cause users to believe that the site is administered or endorsed by the City, including the unauthorized use of City logos or City trademarks;

c. Consultant is prohibited from posting on personal or social media accounts or websites sexually explicit images, videos, cartoons, jokes, messages, or other material that would be considered derogatory to the City; and

d. For online safety, Consultant shall not provide personally identifiable information within social media accounts or websites, including addresses, telephone numbers, or e-mail addresses.

10. INDEMNIFICATION.

a. CONSULTANT AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND CITY’S ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, DAMAGES, SUITS, COSTS, INCLUDING ATTORNEY’S FEES, AND CAUSES OF ACTION OF ANY NATURE WHICH ARISE OUT OF CONSULTANT’S PERFORMANCE OF THE DUTIES AND ACTIVITIES UNDER

THIS AGREEMENT INCLUDING ANY ACTS OR OMISSIONS OF CONSULTANT, ANY AGENT, OFFICER, EMPLOYEE, OR SUBCONTRACTOR OF CONSULTANT.

b. IN ADDITION, CONSULTANT AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND CITY'S ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL DAMAGES, INCLUDING ATTORNEY'S FEES AND COURT COSTS, SUFFERED, OR INCURRED BY THE CITY ARISING FROM ANY TRADEMARK INFRINGEMENT OR CLAIM OF TRADEMARK INFRINGEMENT RESULTING FROM CONSULTANT'S PERFORMANCE IN CONNECTION WITH THIS AGREEMENT.

c. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE CONSTRUED AS A WAIVER OF OR RELINQUISHMENT OF GOVERNMENTAL OR SOVEREIGN IMMUNITY BY THE CITY.

d. THE INDEMNITY PROVIDED HEREIN SHALL SURVIVE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT.

- 11. Waiver of Contractual Right.** A waiver by either Party of a breach of this Agreement must be in writing to be effective. Such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach. The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of limitation to that Party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.
- 12. Applicable Law; Venue; Legal Fees.** The laws of the State of Texas shall govern this Agreement. Venue for any disputes arising under this Agreement shall be in Blanco County, Texas. In the event of litigation, each Party shall be responsible for its own costs and fees of negotiation, mediation, or litigation.
- 13. Severability.** The provisions of this Agreement are severable. If a court of competent jurisdiction finds that any provision of this Agreement is unenforceable, the remaining provisions will remain in effect without the unenforceable parts.
- 14. Termination.**
 - a. This Agreement may be terminated:
 - 1) By either Party for convenience upon 30-day advance notice to the other Party;
 - 2) By either Party for cause upon notice setting forth the basis for the termination and failure by the recipient party to cure the default described in the notice within ten business (10) days after the date of the notice;
 - 3) By the City for failure by Consultant to produce and provide acceptable and suitable services or products in accordance with the standards of this Agreement; or

- 4) In the event of Consultant's bankruptcy or discontinuance of its business.
- b. Upon termination in either of these circumstances, compensation shall be paid to Consultant for services provided up to the date of termination; except compensation shall be based at hourly rate of \$ _____/hour where termination is based on unsatisfactory and/or disapproved services. Consultant shall submit to the City for approval within 30 days of the date of termination an itemized invoice of time and services performed, and shall deliver to the City all plans and documents of work performed up to the date of termination. Compensation shall issue upon receipt of these items.
15. **Notice.** Any notice required shall be in writing and shall be delivered either in person or deposited in the United States mail, postage prepaid, addressed to the party at the address shown herein. A notice shall be deemed delivered when received if delivered personally or if sent by Federal Express or other carrier, or 72 hours after deposit if sent by First Class, certified mail, return receipt requested, through the U.S. Postal Service.
16. **Assignment.** This Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the parties.
17. **Entire Agreement; Amendment.** This Agreement, together with its exhibits, represents the final and entire agreement between the Parties. This Agreement supersedes any prior oral or written communications, representations, or agreements between the Parties. This Agreement may be modified or amended at any time in writing signed by both Parties and upon City Council approval.
18. **Authority; Counterparts.** Each person who signs this Agreement states that he has the express authority to sign this Agreement and to bind the entity he represents to all the terms and conditions stated herein. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document. Facsimile or electronic transmission of executed signatures are deemed to constitute fully enforceable and binding originals.

Remainder of page intentionally left blank.

Signature page[s] follow.

IN WITNESS WHEREOF, the Parties, by their authorized representative, agree and execute this Agreement and to be effective as of the last written date indicated below.

CITY OF JOHNSON CITY, TEXAS – “CITY”

Mayor
City of Johnson City
P.O. Box 369
303 E. Pecan Drive
Johnson City, Texas 78636

Date

Attest:

Whitney Walston, City Secretary

Date

DEEP ROOTS SMALL BUSINESS SERVICES - “CONSULTANT”
401 E. Main Street
P.O. Box 2107
Johnson City, Texas 78636

Signature

Date

Printed Name and Title

EXHIBIT A

City of Johnson City
Request for Qualifications/Proposals
Marketing / Creative / Media Buying / Public Relations Services