

City of Riders

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Sturgis, SD 57785
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City Manager

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Council Report

February 1, 2021

Daniel Ainslie, City Manager

Consideration of Approval of the Professional Service Agreement with the Sturgis Economic Development Corp

Background

For several years, the Council has entered into formal agreements amongst entities that receive a significant investment from the City. These agreements provide objective tasks and metrics by which the Council can judge the efficacy of the investment. In addition, the Scope of Services contained in the agreements provide identifiable outcomes whereby the public will be able to fully understand what was gained by the investment of the taxpayer funds.

These organizations include the Chamber of Commerce, Sturgis Economic Development Corp, the Sturgis Volunteer Fire Department and Sturgis Rally Charities. The last remaining contract needing to be renewed is the Sturgis Economic Development Corp.

Discussion

The scope of services is similar to years past. These services include:

- A. Actively seeking economic development through retention, expansion and growth in Residential, Retail and Industrial Development sectors, in this order, in and for the Sturgis community.
- B. Designating a representative to be an active participant in the promotional efforts of the Sturgis Downtown Foundation and Downtown Business Improvement District.
- C. Conducting visitation, outreach and business retention efforts with community Retail Tax Producers and Employers.
- D. Continuing a role as a catalyst for growth in Residential, Retail and Industrial sectors in the Sturgis area economy.
- E. Being the primary economic development advocate for the Community and advise the City as to the opportunities for all types of development as well as potential economic threats to the Sturgis community economy.
- F. Updating on a semi-annual basis, or more frequently upon request of the City Manager, the City on the most significant efforts that have been provided on behalf of CITY.

Budget Impact

The City has invested in SEDC for several years. This agreement includes an annual investment in City tax and utility revenue of \$110,000. This amount was included in the recently adopted 2021 budget.

Recommendation

This proposed action will definitively outline the services provided by SEDC to the City in exchange for the investment of City tax and utility revenue.

Approved:



Daniel Ainslie, City Manager

**STURGIS ECONOMIC DEVELOPMENT CORP
PROFESSIONAL SERVICES CONTRACT**

THIS AGREEMENT is made this 30th day of January, 2021, between **STURGIS ECONOMIC DEVELOPMENT CORP**, whose address is at 2885 Dickson Drive, PO Box 218, Sturgis, SD 57785, hereinafter referred to as the CONSULTANT, and the **CITY OF STURGIS**, whose address is 1040 Harley-Davidson Way, Sturgis, SD 57785, hereinafter referred to as the CITY.

WHEREAS, South Dakota State Statute 10-52A-2 states that collection of a non-ad valorem tax may be collected on various transit purposes. The tax can be used for the purpose of land acquisition, architectural fees, construction costs, payments for civic center, auditorium or athletic facility buildings, including the maintenance, staffing and operations of such facilities and the promotion and advertising of the city, its facilities, attractions and activities; and

WHEREAS, the Sturgis Economic Development Corp is the primary entity to provide economic development, and

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. SCOPE OF SERVICES:

- a. CONSULTANT shall actively seek economic development and retention, expansion and growth in Residential, Retail and Industrial Development in this order in the Sturgis community.
- b. CONSULTANT shall designate a representative to take an active part in the Sturgis Downtown Foundation and Downtown Business Improvement District.
- c. CONSULTANT shall conduct visitation outreach and retention campaign with community Retail Tax Producers and Employers.
- d. CONSULTANT shall be a catalyst for growth in Residential, Retail and Industrial Growth.
- e. CONSULTANT shall be the primary economic development advocate for the Community and advise the City as to the opportunities for all types of development as well as threats to our economy.

2. COMPENSATION: As consideration, the CITY shall pay to the CONSULTANT the sum of One Hundred Ten Thousand Dollars (\$110,000.00).

3. DIRECTION AND COORDINATION: Should the CONSULTANT have concerns with the performance of any CITY staff under the guidelines of this contract, CONSULTANT shall first direct such comments and concerns to the City Manager.

4. TERM: This Agreement shall commence on January 1, 2021 and shall terminate on December 31, 2021.

5. NON-DISCRIMINATION: The CONSULTANT and its assigned officers and agents, and CITY and its employees, agents and officers, shall provide these services and act and conduct their respective activities under this contract without discrimination in any manner with regard to race, color, sex, creed, religion, ancestry, national origin, or disability.

6. **INDEPENDENT CONTRACTOR:** The parties agree that CONSULTANT operates as a municipal corporation and is contracting to do work according to its own methods, without being subject to the control of CITY. The relationship between CITY and CONSULTANT shall be that as between independent contractors and not as an employer-employee relationship.
7. **INSURANCE:** CONSULTANT and CITY shall secure the insurance specified below. And all such coverage shall be issued by recognized, reputable insurance companies. The insurance specified in this section may be in a policy or policies of insurance, primary or excess. Certificates of all required insurance shall be provided by each party to the other within 15 days of a request for the same.
- a. CONSULTANT shall secure Workers' compensation insurance providing the statutory limits required by South Dakota law.
 - b. CONSULTANT shall maintain liability insurance providing occurrence basis coverage for any claim arising from the use or occupancy of the building and premises to be constructed and leased by CONSULTANT, in the amount of \$1,000,000 each occurrence and \$1,000,000 annual aggregate, naming the City of Sturgis as an insured party.
 - c. CONSULTANT will provide City with at least thirty (30) days' written notice of an insurer's intent to cancel or not renew any of CONSULTANTS insurance coverage.
 - d. CITY will require that all those persons providing services at the premises to be leased by CONSULTANT will be in full compliance with the City of Sturgis volunteer policy and other reasonable request of CONSULTANT's insurance providers.

8. **NOTIFICATION:** Notification required pursuant to this Agreement shall be made in writing and mailed by regular U.S. mail, postage prepaid, to the following addresses. Such notification shall be deemed complete upon mailing to CONSULTANT at the following address:

STURGIS ECONOMIC DEVELOPMENT CORP:

Sturgis Economic Development Corp
Attn: Executive Director
PO Box 218
2885 Dickson Drive
Sturgis, SD 57785-1244

IF SENT TO CITY:

City of Sturgis
Attn: City Manager and Finance Officer
1040 Harley-Davidson Way
Sturgis, SD 57785

Either party may change the address or addresses for notice on ten (10) days written notice which complies with the above requirements for notice.

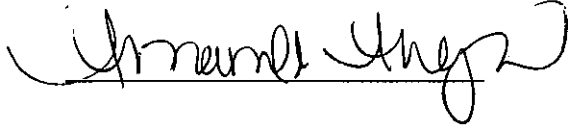
9. **TERMINATION:** This agreement may be terminated for Cause on 30-day notice, and either Party may terminate this Agreement by giving written notice of such termination to the other, upon the occurrence of any of the following events:
- a. A party breaches any of its material obligations under this Agreement and does not cure the breach within thirty (30) calendar days after the non-breaching Party gives written notice to the Party in breach by describing the breach in reasonable detail, or
 - b. A party dissolves or liquidates or otherwise discontinues substantially all of its business operations.
 - c. In the event of termination, CONSULTANT agrees to compensate or assume payment for any expenses incurred by CITY in performing its work for the benefit of the CITY.

10. **JURISDICTION:** The validity, performance, and enforcement of this Agreement are governed by the laws of the State of South Dakota. Jurisdiction and venue of any legal proceeding involving the parties in connection with this Agreement will lie exclusively with the state Circuit Court located in Sturgis, South Dakota.
11. **CONFIDENTIAL INFORMATION:** Both parties recognize that CONSULTANT and CITY and their officers, employees and agents, in the course of performance of this Contract, may have access to confidential information and that disclosure of such information could violate rights of private individuals and entities. CONSULTANT agrees that it shall not disclose any confidential information it obtains and acknowledges that the public records requirements of SDCL1-27 will determine CITY'S duties under this provision. For the purposes of this Agreement, "**Confidential Information**" shall mean any information from or relating to the CITY which is confidential or proprietary in nature or that is treated as being confidential by the CITY, whether such information is or has been conveyed to SEDC in oral, visual, electronic, written or other tangible form, and whether such information is received directly or indirectly, such as in the course of business discussions or other investigations by SEDC. Confidential Information shall include any trade secret, technical, operational, financial or business information, plans, prospects, idea, concept or know-how of or relating to the CITY'S upcoming economic development and promotion efforts, or to the CITY any notes, work papers or other documents prepared by the Recipients which contain, reflect or are based upon such Confidential Information (the "Work Papers"). In the event SEDC or any of its Representatives or Affiliates are required by law, regulation, court order or any governmental or regulatory body or authority to disclose any of the Confidential Information, hereof, it agrees that, prior to making such disclosure, it will, to the greatest extent possible promptly notify the CITY in writing and otherwise cooperate with the CITY, at the CITY'S sole cost and expense, in order to facilitate the CITY seeking a protective order or other appropriate remedy from the proper authority, and cooperate with the CITY to lawfully limit the applicable disclosure and/or obtain any such protective orders or other appropriate remedy. CONSULTANT further agrees to take appropriate action to prevent such disclosure by its assigned officers. The confidentiality covenants contained herein will survive termination or cancellation of this Agreement.
12. **VOLUNTARY AGREEMENT:** The parties acknowledge that they are entering into this agreement freely and voluntarily, that they have the opportunity to be represented and advised by counsel in the negotiations resulting in this Contract, that they have given due consideration to the provisions contained herein, and that they thoroughly understand and consent to all provisions herein.
13. **ENTIRE AGREEMENT:** This written Agreement and all of its provisions shall be considered the complete agreement of the parties relating to the matters set forth therein. This contract contains the terms of the Contract between the parties and supersedes all prior agreements, negotiations, and representations, written and oral, relating to the subject matter hereof. notwithstanding any oral-representations or other writings to the contrary. The parties specifically understand and agree that upon execution of this Agreement any and all prior agreements in effect on the subject matter herein shall be terminated and extinguished and shall be of no further force or effect between the parties. No statement, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding. This contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

Dated this 21st day of January, 2021

Sturgis Economic Development Corp



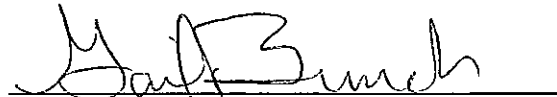
Amanda Anglin, Executive Director
Sturgis Economic Development Corp

State of South Dakota)
) ss.
County of Meade)

On this the 21st day of January, 2021, before me, the undersigned officer, personally appeared Amanda Anglin who acknowledged herself to be the Executive Director of the Sturgis Economic Development Corp of Sturgis, South Dakota and that she, as such Executive Director, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Sturgis Economic Development Corp by herself as Executive Director.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(seal)



Notary Public – South Dakota
My Commission Expires 3/22/22

CITY OF STURGIS

Daniel Ainslie, City Manager
City of Sturgis

State of South Dakota)
) ss.
County of Meade)

On this the _____ day of _____, 2021, before me, the undersigned officer, personally appeared Daniel Ainslie who acknowledged himself to be the City Manager of the City of Sturgis, South Dakota, a municipal corporation, and that he as such City Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Sturgis by himself as City Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(seal)

Notary Public - South Dakota
My Commission Expires _____

