

CAG # 1
3

ARF-11892

FT BEND CO ASST DST NO. 1

Meeting
Date: 09/24/2013

Sales Tax Monitoring and Consulting

Submitted Donna Ospina, County Judge

By:

Department: County Attorney

Renewal

Agreement/

Appointment:

Reviewed
by County
Attorney's
Office:

Yes 

Multiple
Originals
Y/N?:

Information

SUMMARY OF ITEM

Take all appropriate action on Agreement between Fort Bend County Assistance District No. 1 and Sales Revenue, Inc. to provide sales tax monitoring and consulting services for a total monthly amount not to exceed \$1,250.00.

SPECIAL HANDLING

Attachments

Agreement

9/30/13 3 originals returned to Marcus at Co Attorney

This AGREEMENT is made and entered into as of 2013 (the "Effective Date"), by and between **Fort Bend County Assistance District No.1** (the "District") and **SALES REVENUE, INC.** ("SRI" or the "Firm"). In consideration of the mutual covenants and agreements contained herein, the District and the Firm agree as follows.

The District hereby appoints the Firm as the District's sales tax consultant pursuant to the terms of this Agreement. The Firm hereby agrees to serve as the District's sales tax representative and provide such other related services as set forth in this Agreement.

- (1) Physical audit of businesses within the boundaries within the County Assistance District ('CAD').
- (2) Mapping of businesses within the CAD's boundaries.
- (3) Correspond with the City and the State Comptroller's Office (the "Comptroller").
- (4) Cross reference all accounts with the Comptroller for accuracy.
- (5) Receipt of monthly Comptroller report and enter listings of all payees into the District database.
- (6) Quarterly site inspections of all commercial property within the District to verify specific business operations and/or closings. Creation of a list of non-payments from businesses.
- (7) Obtain all business sales tax identification numbers and report all information to the District's Governing Body of Directors (the "Board") for review.
- (8) Research any erroneous payments to the District from businesses outside the District and correspond with the State regarding findings.
- (9) Store all listings of commercial property by tax category.
- (10) Prepare quarterly reports, including listing of all commercial property, and deliver report to the Board.

II. Compensation

The District shall compensate the Firm for all services rendered for and/or on behalf of the CAD, within forty-five (45) days of submission of an invoice from the Firm. For, and in consideration of the services described, the fees are: A cost of **\$1250.00** per month will be incurred by the District. The payment of all invoices shall be governed by the Texas Prompt Payment Act, Chapter 2251, Texas Government Code. SRI will be responsible for providing the District with updates, reports, drafting, and reporting to the City and the State Comptroller. The general schedule of services to be performed is provided as follows:

Monthly

- Monitor and cross reference payments received by the District. Contact the State with any irregularities.

Quarterly

- Review payment spreadsheet to identify sporadic or non-contributing businesses, and drafting of a letter with the spreadsheet to be sent to the City.
- Audit of all businesses in the District and drafting of report to be delivered to the Board by a SRI Representative

Semi-Annually

- Correspond with the Comptrollers Office regarding any outstanding errors discovered by SRI and not yet corrected.

Annually

- Audit of all businesses to accurately complete the State Comptroller report, and submission of the audit to the District's legal counsel and Governing Board for review before the due date.
- Report to the Board with copies of the completed annual Comptroller audit and information regarding any issues discovered.
- Annual reports/maps to the Board of any issues discovered and action taken on the District's behalf.

III. Term and Termination

This Agreement is in effect for one year from the date of signing with an additional automatic two year renewal agreement between the parties.

IV. General Provisions

(A) This Agreement is not intended to and does not prohibit the Firm or any representative of the Firm from accepting employment by and/or performing services for individuals or organizations other than the District; provided, however, that such employment shall not interfere with the proper performance of the duties, expressed and implied, of the Firm hereunder.

(B) TO THE FULLEST EXTENT PERMITTED BY LAW, SRI, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE DISTRICT AND ITS OFFICERS, DIRECTORS, REPRESENTATIVES, AND AGENTS, FROM EVERY LOSS, DAMAGE, INJURY, COST, EXPENSE, CLAIM,

JUDGMENT, OR LIABILITY OF EVERY KIND OR CHARACTER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHICH ARISES DIRECTLY OR INDIRECTLY FROM THE SRI'S WILLFUL, INTENTIONAL, RECKLESS, OR NEGLIGENT (WHETHER ACTIVE, PASSIVE, OR GROSS) ACTS OR OMISSIONS RELATED TO OR ARISING FROM THIS AGREEMENT. THIS INDEMNITY AND HOLD HARMLESS PROVISION WILL APPLY WHETHER SUCH ACTS OR OMISSIONS ARE CONDUCTED BY SRI OR ANY SUBCONTRACTOR OR AGENT OF SRI.

THIS INDEMNITY AGREEMENT IS INTENDED TO MEET THE TEXAS "EXPRESS NEGLIGENCE RULE" BECAUSE SRI AGREES THAT IT APPLIES AND IS ENFORCEABLE EVEN AS TO LOSSES, DAMAGES, INJURIES, EXPENSES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, OR LIABILITIES JOINTLY OR CONCURRENTLY CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF THE DISTRICT. THE TERM "FAULT" IN THE PREVIOUS SENTENCE INCLUDES THE VIOLATION OR BREACH BY THE DISTRICT OF ANY COMMON LAW DUTY, ANY TERM OF THIS AGREEMENT, OR ANY STATUTE OR REGULATION.

THIS INDEMNIFICATION OBLIGATION IS IN ADDITION TO ALL OTHER LEGAL, EQUITABLE, OR INDEMNIFICATION REMEDIES AVAILABLE TO THE DISTRICT. THIS INDEMNIFICATION OBLIGATION SURVIVES THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

SRI DOES HEREBY WAIVE, RELEASE AND FOREVER RELINQUISH AND DISCHARGE THE DISTRICT FROM ALL OF SRI'S CAUSES OF ACTION ARISING FROM BODILY INJURY OR DEATH OR DAMAGE TO ANY PROPERTY ARISING OUT OF THE WORK, REGARDLESS OF WHETHER THE INJURY OR DAMAGE IS CAUSED IN FULL OR IN PART BY THE NEGLIGENCE OR OTHER FAULT OF THE DISTRICT.

(C) Following execution of this Agreement, SRI shall furnish the District with a Certificate(s) of Insurance evidencing the following coverage and SRI shall at all times during the term of this Agreement maintain such coverage:

- (1) Commercial General Liability: \$1,000,000 per occurrence with \$1,000,000 aggregate.**
- (2) Automobile Liability: combined single limit \$1,000,000.**
- (3) Workers Compensation & Employers Liability: each accident \$1,000,000, disease-each employee \$1,000,000, and disease-policy limit \$1,000,000.**
- (4) Professional Liability: \$1,000,000 per occurrence with \$1,000,000 aggregate.**

The Certificate(s) of Insurance shall provide that the District shall be provided thirty (30) days written notice of any cancellation or diminution of insurance coverage. The District and the District's agents and employees shall be added as additional insured's to Commercial General Liability and Automobile Liability policies. All policies, except Professional Liability, written on behalf of SRI shall contain a waiver of subrogation in favor of the District and the District's agents and employees. In addition, all of the aforesaid policies shall be endorsed to provide that they are primary coverage's and not to excess of any other insurance available to the District, and without rights of contribution or recovery against the District or from any such other insurance available to the District. SRI, and not the District shall be responsible to pay the premiums and deductibles, if any, that may⁶ from time to time be due under all of the insurance policies required of SRI.

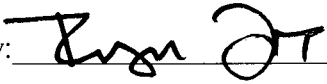
- (D) If any provision or term of this Agreement is held to be invalid or unenforceable by final judgment or decree of a court of competent jurisdiction, the remaining provisions and terms hereof shall remain in force and effect and binding upon the Parties.
- (E) All documents, whether in paper or electronic format, prepared pursuant to SRIs performance under this Agreement, shall become and remain the property of the District, unless otherwise agreed by the Parties in writing. SRI will comply with the Texas Local Government Records Act and all applicable rules, regulations, policies and record retention schedules adopted pursuant thereto with respect to the District's records. Upon termination of this Agreement, SRI shall relinquish and turn over to the District, without unnecessary delay, all records related to SRIs performance hereunder, including, without limitation, all reports, maps, store listings and correspondence.
- (F) Notice
 - (1) Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to District or Firm at the addresses set forth below.
 - (2) If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
 - (3) Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:
 - a. If to Firm: Sales Tax Revenue, Inc.
Ryan M. Fortner, President
6935 Barney Road, Suite 110
Houston, Texas 77092
 - b. If to District: Fort Bend County Assistance District No. 1
301 Jackson Street, Suite 719
Richmond, Texas 77469
 - (4) Either party may designate a different address by giving the other party ten (10) days written notice.

- (G)** Neither District nor Firm shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- (H)** This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have approved this Agreement which may be executed in multiple counterparts, each of which shall be deemed to be an original.

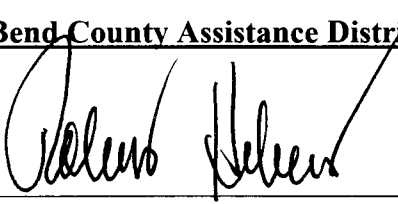
SALES REVENUE, INC.

By: 

Ryan Fortner

Title: President

Fort Bend County Assistance District No. 1

By:  9-24-13
Robert E. Hebert, Director

Attest:


Dianne Wilson, County Clerk

