

COMMISSIONERS COURT AGENDA ITEM

Date Submitted: November 17, 2011	Proposed for Agenda of: November 28, 2011
Initiated By: <u>County Judge</u> <u>Webb County</u> Entity/Organization	Staff Source: <u>County Attorney</u> <u>County Attorney</u> Department
Subject: Discussion and possible action to approve the Consulting Services Agreement (including term and fees) between Webb County and Johnson and Johnson Attorneys at Law for Consulting Services concerning legislative matters and authorizing the County Judge to execute all relevant documents and any matters incident thereto.	
Background: Previous Contract expired in October.	
Previous Court Action:	
Financial: Possibly \$3,500 per month for the first year and \$7,000 for the second year.	
Budget Account Number:	
Auditor's Recommendation:	Chief of Staff Approval:

CONSULTING SERVICES AGREEMENT

This agreement is made and entered into this 20th day of November 2011 by and between Johnson and Johnson Attorneys at Law whose principal office is located at 1122 Colorado, Suite 208 Austin, TX 78701 (hereinafter referred to as the "Consultant"), and Webb County, a political subdivision of the State of Texas, having an office located at 1000 Houston Street, Laredo, Texas 78040 (hereinafter referred to as "Client").

Whereas, Consultant has offered services to the Client and the Client has determined to purchase such services from Consultant as are described below in accordance with the terms set forth herein.

Now, therefore, in consideration of the foregoing premises, the parties hereby agree as follows:

I. SCOPE OF SERVICES

Consultant hereby agrees to perform the following consulting and government relations services-in the State of Texas for the Client:

- a) Monitor and report the status of legislation of interest to Client in the Texas Legislature during any regular or special sessions occurring during the contract period.
- b) Seek the position of the Client with respect to legislation and, following development and implementation of Client's position, communicate Client's position to legislators and legislative committees.
- c) Develop and implement a strategy designed to educate key state executive, legislative, and regulatory leaders and their staffs on issues of importance to Webb County. Targeted individuals will include but not be limited to the Governor, the Lieutenant Governor, the Speaker, the Comptroller, as well as, all House and Senate Committees. Educate these key decision makers to effectuate desired results.
- d) Develop and implement a strategy designed to educate key legislative committee members and coalition leaders on issues affecting Webb County. Targeted committee members should include those serving on the House Appropriations & Senate Finance Committees, House State Affairs, County Affairs, Business & Industry, Corrections, Economic Development, Energy Resources, Environmental Regulation, Higher Education, Human Services, Land & Resource Management, Natural Resources, Public Health, State Cultural & Recreational Resources, Transportation, Ways & Means and Border & International Affairs Committees, and Senate Administration, Business & Commerce, Criminal Justice, Education, Government Organization, Health &

Human Services, Infrastructure Development and Security, Intergovernmental Relations, International Relations and Trade, Jurisprudence, Natural Resources, State Affairs and Veteran Affairs & Military Installations Committees. Targeted coalition leaders should include, but not be limited to, leaders of the Republican and Democratic Caucuses, the Mexican-American Caucus, the Senate Hispanic Caucus, the Black Caucus, the Conservative Coalition and the Legislative Study Group. Educate members of these committees and coalitions to achieve desired results.

- e) Work in support of or opposition to legislation, rules, policies or programs that may affect Webb County including drafting proposed legislation, identifying potential sponsors of legislation, appearing as an advocate before members of the executive and legislative branch and presenting information to the legislature or state government.
- f) Provide intelligence gathering regarding internal information as it relates to political occurrences in elections affecting Webb County.
- g) Assist in developing and reviewing Webb County educational materials for key executive, legislative and regulatory decision makers.
- h) Monitor rulemaking process at relevant state agencies to protect against any changes in administrative rules that may adversely impact Webb County.

Assist Webb County in developing mutually beneficial legislative and regulatory alliances.

Further develop and cultivate relationships with state agency and legislative staff by initiating informational meetings to discuss issues impacting Webb County.

- k) Work in support or in opposition to legislative initiatives with the potential to positively or negatively impact Webb County.
- l) Work with trade associations, interest groups and other entities sharing issues of common interest with Webb County.

H. CONFLICT OF INTEREST

The parties hereby recognize and acknowledge that, pursuant to the laws of the State of Texas, a registered lobbyist may represent multiple clients with the client's consent after disclosure and consideration of the possible effects of that representation on the Consultant's professional judgment. Pursuant to said laws, Consultant hereby confirms, and the Client hereby acknowledges that Consultant does not currently represent any clients that would constitute a conflict of interest to the work contemplated to be performed by Consultant hereunder.

III. TERMS, WARRANTIES AND REPRESENTATIONS

Consultant agrees to the following terms and makes the following warranties:

- a) Consultant will perform all duties in a timely and professional manner and will abide by all state laws. Consultant will engage in no illegal or unethical activities when engaged in activities on behalf of the Client.
- b) Consultant will comply with all applicable federal, state and local laws including those governing gifts and political contributions.
- c) If Consultant's activities warrant registration under Chapter 305 of the Texas Government Code, Consultant will properly register and maintain registration throughout the duration of this Agreement. Consultant will fully comply with all legal requirements necessary to perform lobbying and government relations services for the Client.

IV. REGISTRATION AND REPORTING

If applicable, Consultant is responsible for registering and filing all reports with federal, state and local governments which may be required by law or regulation in connection with Consultant's activities on behalf of the Client. Such reports must be filed in an accurate and timely manner at Consultant's expense. To the extent Client must file any similar reports, Consultant will provide all necessary information and assistance to the Client, in a timely manner, to enable the Client to comply with this filing and registration requirements.

V. COMPENSATION, CONSIDERATION AND TERM OF CONTRACT

- a) In consideration for the services provided, Client will pay Consultant a monthly sum of \$3,500.00 per month for services the day of October 15th, 2011 through the 14th day of October, 2012. The Client will pay the Consultant \$7,000.00 per month for services the day of October 15, 2012 through the 14th day of October 2013.
- b) Consultant shall submit monthly invoices no later than the second Monday following the month for which the invoice is submitted.

The Client will not pay any additional expenses unless agreed to by a representative of the Client.

- c) The term of this agreement shall be for a period of 24 months, ending the 14th day of October, 2013 and is cancelable at any time with 60 days written notice. In the event of cancellation Consultant must discontinue all services

in connection with this Agreement and as soon as practicable after receipt of the notice of cancellation Consultant shall submit a statement showing in detail the expenses incurred under this Agreement to the date of the cancellation. Within thirty (30) days of the receipt of the statement, the County Judge will review the statement and approve it with such modifications, if any, as he may deem necessary. In the event of termination, copies of all completed or partially completed data, information, documents and instruments prepared under this Agreement shall be delivered to the County.

V I . CLIENT CONFIDENTIAL INFORMATION

Consultant agrees for themselves and on behalf of all employees and agents of Client, that with respect to any data, documents or other writings supplied by the Client to Consultant and identified as proprietary or confidential information (hereinafter referred to as "Confidential Information"):

- a) To use such Confidential Information only in Consultant's performance under this Agreement;
- b) Not to make copies of such Confidential Information or any part thereof without the written permission of the Client;
- c) Not to disclose any such Confidential Information or any part thereof to others for any purpose;
- d) To limit dissemination of such Confidential Information to persons within Consultant's employ who are directly involved in Consultant's performance under this Agreement and have a need to use such Confidential Information for purposes of such performance only and
- e) To return such Confidential Information and any copies thereof to the Client at the completion of all services under this Agreement or at such earlier date as the Client may designate.

Confidential Information shall include, but is not limited to, all written documentation which is required to be delivered under this Agreement or which is delivered pursuant to the Agreement.

VII. CORRUPT GIFTS AND THE PAYMENT OF COMMLSSION

Consultant shall not offer or give or agree to give any person employed by Client, or any official or employee of the State of Texas, any gift, commission, rebate or consideration of any kind as inducement or reward for doing, influencing or carrying out any act in relation to the obtaining or execution of a contract or award in response to the Request for Offer or for showing any favor or disfavor to any person or persons in relation thereto. Breach of this Section may render the Consultant, and/or agents liable to punishment by law.

VIII. PUBLIC RELEASE OF INFORMATION

Consultant shall obtain the prior written approval of the Client concerning the content and timing of news releases, articles, brochures, advertisements, speeches and other information releases concerning the work performed or to be performed hereunder by Consultant. Consultant agrees to give the Client reasonable advance time for review of any materials submitted to the Client for approval.

IX. NATURE OF PROFESSIONAL RELATIONSHIP

Consultant is an independent contractor and the Agreement shall not be construed or interpreted to create an association, partnership, joint venture, relation of principal and agent or employer and employee between the Client and Consultant within the meaning of federal, state or local law. Consultant shall not enter into any agreement, oral or written, on behalf of the Client without the express written approval of the Client.

X. LIMITATION ON LIABILITY

EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY CONSULTANT, IN NO EVENT WILL THE CONSULTANT BE LIABLE FOR SPECIAL, COLLATERAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF GOODWILL, LOSS OF PROFITS OR REVENUES, LOSS OF SAVINGS, LOSS OF USE, INTERRUPTIONS OF BUSINESS, AND CLAIMS OF CUSTOMERS).

EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY CONSULTANT, CONSULTANT'S TOTAL AGGREGATE CONTRACTUAL OR TORTIOUS LIABILITY OWING TO CLIENT UNDER THIS AGREEMENT, INCLUDING LIABILITIES OF WHATSOEVER NATURE AND HOWSOEVER ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR AT LAW SHALL IN NO CIRCUMSTANCE EXCEED THE AMOUNT PAID TO CONSULTANT BY CLIENT FOR THE SERVICES TO BE PERFORMED HEREUNDER.

XI. GENERAL

- a) Consultant agrees that the work performed under this Agreement, including the services provided, shall comply with all applicable permits and licenses and the requirements of all applicable laws, regulations and standards.

- b) Consultant shall not assign or delegate this Agreement or any of its rights, duties, or obligations hereunder to any person or entity without prior written approval of the Client.
- c) The terms of this Agreement constitute the final and entire agreement between the parties and no prior or contemporaneous representations, expressions or agreements, either written or oral, shall vary or supplement the terms of this Agreement. The terms of this Agreement shall not be supplemented or contradicted by course of dealing, usage of trade or course of performance under this or other contracts.
- d) Amendments to the Agreement shall be in writing and signed by both Parties.
- e) Law of Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in Webb County, Texas.

Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when either: (i) personally delivered to the intended recipient; (ii) sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below, or (iii) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. Notices shall be effective on the date of delivery or receipt, or, if delivery is not accepted, on the earlier of the date that delivery is refused or three (3) days after the date the notice is mailed. For purposes of this paragraph, the addressees of the parties for all notices are as follows unless changed by similar notice in writing given by the particular person whose address is to be changed:

If to County:

The Honorable Danny Valdez
Webb County Judge
1000 Houston St.
Laredo, Texas 78040

If to Consultant:

Johnson and Johnson Attorneys at Law
1122 Colorado, Suite 208
Austin, TX 78701

- g) Counterparts. This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts

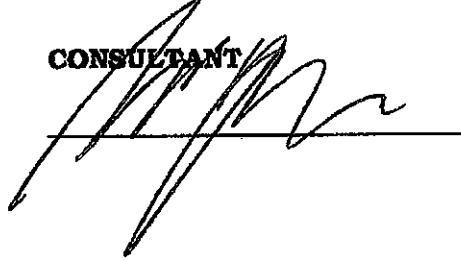
shall together constitute but one and the same document.

- h) Terminology and Definitions. All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- i) Headings. The headings used herein are for convenience of reference only and shall not

COUNTY OF WEBB

CONSULTANT



Honorable Danny Valdez
Webb County Judge



ATTESTED:


Margie Ramirez Ibarra
Webb County Clerk

APPROVED AS TO FORM:

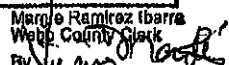

Anna L. Cavazos Ramirez
Webb County Attorney*

*By Law, the County Attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorneys.

I, Margie Ramirez Ibarra, County Clerk, Webb County, do hereby certify that this is a true and correct copy, as the same appears of record in my office.

Witness my hand and seal of office on

DEC 19 2011

Margie Ramirez Ibarra
Webb County Clerk
By 
Deputy County Clerk

