

INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF CORPUS CHRISTI AND
THE CORPUS CHRISTI DOWNTOWN MANAGEMENT DISTRICT
TO ENCOURAGE THE REDEVELOPMENT OF DOWNTOWN CORPUS CHRISTI

This Interlocal Cooperation Agreement ("Agreement") is made between the Corpus Christi Downtown Management District ("~~District~~DMD"), created under Chapter 375 of the Texas Local Government Code, and the City of Corpus Christi, Texas ("City") a municipal corporation.

WHEREAS, the ~~District~~DMD and the City desire to enter into an Agreement under the Interlocal Cooperation Act to provide for Downtown Corpus Christi redevelopment ("Project");

Now, therefore, in consideration of the mutual covenants in this Agreement, the City and the ~~District~~DMD (each, "Party") authorized by appropriate actions of their governing bodies, agree as follows: .

Article I. DEFINITIONS

"Corpus Christi Downtown Management District" means a municipal management district created under Chapter 375 of the Texas Local Government Code, ~~for~~.

~~"Corpus Christi Downtown Management District Boundary" means~~ the area bounded to the north by Interstate Highway 37, to the south by Kinney Street, to the west by North Lower Broadway, and to the east by Corpus Christi Bay and includes the area within the Corpus Christi Marina.

~~"Downtown Merchants Association Cooperative Marketing Program" means the Corpus Christi Downtown Management District's Marketing/Cooperative Advertising Committee consisting of no less than 4 members who represent downtown merchants and retailers.~~

~~"Merchants" means Corpus Christi Downtown Management District businesses that trade in commodities, either wholesale or retail, that were produced by others, in order to earn a profit.~~

~~"Retailers" means Corpus Christi Downtown Management District businesses that sell goods or merchandise to consumers from a fixed location, i.e., a shop, in small or individual lots for direct consumption by the purchaser.~~

Article II. SERVICES

2.01 General Services Requested by City.

In accordance with the DMD's Three Year Strategic Plan (Attachment A), DMD shall provide the following services to assist in the redevelopment of Downtown Corpus

Christi:

- a. DMD Operations – Create a cleaner, safer, more beautiful and accessible DMD and Greater Downtown Area.
- b. Development & Improvement – Attract new businesses, development and residences; increase sales activity and street level occupancy and improve existing buildings and urban design.
- c. Marketing & Events – Increase sales, visitorship and investment in the DMD and improve DMD visibility through strategic marketing and developing/managing events.
- d. Organization Management – Continue to build organizational capacity, relevance and recognition in the community.^[AMB1]

2.402 Additional Services Requested by City.

In addition to the District DMD's stated priorities in the Three Year Strategic Plan, the City requests specific activities to be undertaken by the DMD as follows: shall provide the following services to provide for the redevelopment of Downtown Corpus Christi:

- a. Work in conjunction with the City to develop ways to encourage and promote commerce in Downtown Corpus Christi.
- b. Maintain, continue, and enhance the current level of projects that provide for a more pedestrian friendly environment and encourage commerce, retail, and residential activities in Downtown Corpus Christi. It currently is delivering:
 - i. Curb sweeping.
 - ii. Landscaping.
 - iii. Event activities.
 - iv. Marketing.
 - v. Park enhancements.
- c. Assist the City in its downtown development and redevelopment activities, and coordinate its activities with the City.
- d. Continue its mission to act as a catalyst to strengthen downtown's economic base through:
 - i. Ensuring programs to improve image of Downtown Corpus Christi.
 - ii. Increasing attractiveness through maintenance.
 - iii. Assuring cleanliness and safety of Downtown Corpus Christi.

~~e. Promote the development and expansion of residential housing projects within Downtown Corpus Christi.~~

[AMB2]

~~(a) f.—Landscaping Advisory and Maintenance – Assist the City in planning optimal landscaping and greenery for public improvement projects. Assume maintenance for installed features upon completion of construction, as mutually agreed upon.~~

~~(a)(b) Property Management - Assist the City with code enforcement and rehabilitation projects within Corpus Christi, including ensuring the proper maintenance of vacant buildings, by acting as a resource to the City.~~

~~(c) g.—Research - Conduct surveys of the owners of businesses and properties within Downtown Corpus Christi to determine their needs and priorities, also researching best practices, and fulfilling these needs and priorities.~~

~~(b)(d) -~~

~~(e) h. TIRZ #3 Administration - Assist the City with the establishment administration of a Tax Increment Reinvestment Zone #3 or public improvement district to support infrastructure improvements within Downtown Corpus Christi, and adjacent areas and; make a recommendation to the City for one District representative to be appointed to the Board of Directors of such tax increment reinvestment zone or public improvement district.~~

~~i. Recommend recommend projects for consideration of the City's Tax Increment Reinvestment Zone Number 3 (TIRZ#3), and implement projects that accomplish goals of redevelopment, and at the request of the TIRZ#3 board of directors. make a recommendation to the City for one DMD representative to be appointed to the Board of Directors of TIRZ #3.~~

~~(d)(e) j. Parking Advisory Committee- Nominate two DistrictDMD representatives to be appointed members of the Parking Advisory Committee in compliance with Section 53-196(b)(1)(b), Code of Ordinances.~~

Section 2.03 Safety & Security Partnership

In accordance with the Safety & Security Partnership Scope of Services (Attachment B), DMD agrees to provide City with Bike Patrol Officers and Downtown Ambassadors to patrol the Downtown. DMD also agrees to provide City with a police supervisor to do the necessary recruiting and scheduling of the officers (fill schedule developed by DMD).The Bike Patrol Officers (may also walk or utilize Segways) will be Off-Duty Police Officers of the City Police Department who have received the necessary approvals from the City Police Chief.

City shall compensate DMD in an amount of at least One Hundred Thousand Dollars (\$100,000), subject to annual allocation by City Council, for services performed under the Partnership, including necessary supplies, liability insurance, equipment and

maintenance costs for the Partnership. DMD shall submit properly itemized invoices for services performed under this Agreement and shall cooperate with and provide any other necessary information, including Benchmark performance to City. City shall pay DMD within thirty (30) days after receipt of such properly itemized invoices according to the Texas Prompt Payment Act.

City and DMD agree that the police officers and security ambassadors are not employees of the City when contracted or employed by the DMD. As such, DMD is solely responsible for all employment-related taxes. DMD acknowledges that the City is not responsible for any losses related to DMD's or the officers and ambassadors' actions. DMD has no authority, express or implied, to bind or obligate City in any way.

DMD shall maintain insurance coverage as outlined in Attachment C attached hereto and incorporated herein for all purposes.^[AMB3]

Section 2.042 Preliminary Annual Service Plan.

Each year, the DMD shall provide a Service Plan, which outlines the overall objectives of the DMD, to the City Manager. The Plan must describe the plan of action for the upcoming year, including a line item budget and significant initiatives.

(a) Draft Plan - By August 1 of each year, the DMD shall prepare and deliver to the City Manager or the City Manager's designee ("City Manager") a preliminary plan to deliver services to Downtown Corpus Christi during next fiscal year. The preliminary plan must address City Council goals for Downtown Corpus Christi, including a plan to increase commerce in Downtown Corpus Christi, and must state the DistrictDMD's revenue received from the DistrictDMD's ad valorem taxes from the previous fiscal year.

(a)(b) Final Plan – By October 1 of each year, the DMD shall submit a final plan to the City Manager.

2.3. Plan. The District shall provide its final plan ("Plan"), which outlines the overall objectives of the District, to the City Manager no later than July 1 of each year.

a. The Plan must describe the plan of action for the upcoming year, including a line item budget and significant initiatives.

b. Opportunities to develop commerce in Downtown Corpus Christi must be specifically identified and included in the plan.

c. Information necessary to describe the District's efforts to help promote and encourage commerce in Downtown Corpus Christi must be included.^[AMB4]

Section 2.05 City Obligations

In order to support the DMD in accomplishing the objectives outlined in this agreement the City shall:

(a) 2.4 The City agrees to Appoint a representative from the City to serve in advisory capacity to the DistrictDMD's Board of Directors.

(a)(b) Assist the DMD with its best efforts in order to carry out the objectives

outlined in the Agreement, including waiving of Administrative Fees, supporting DMD pre-approved, reoccurring special events in designated locations, and providing information, as requested by DMD.

~~2.5 The City agrees to have the Mayor or the District's City Council Representative meet with the District's Board of Directors every calendar quarter at the regularly scheduled Board of Director's meetings.~~

Article III. FINANCIAL REQUIREMENTS

Section 3.01 Subject to Annual Appropriations

-The parties agree and understand that funding under this Agreement is subject to annual appropriations by the City Council, and that each fiscal year's funding must be included in the City's budget for that year. Funding is not effective until the City's budget is approved by the City Council.

Section 3.02 City Match

~~-In consideration for the DistrictDMD's performance under this Agreement (outside Section 2.03), City agrees to make payment to the DistrictDMD matching the DistrictDMD's revenue received from the DistrictDMD's ad valorem taxes each fiscal year at a minimum of \$127,000, in four equal quarterly payments, for work performed during the fiscal year.~~

(a) The payments to the DistrictDMD will be based on the DistrictDMD's revenue received from the DistrictDMD's ad valorem taxes from the previous fiscal year, as certified by the Appraisal DMD by July 31 of the current calendar year, from the previous fiscal year, stated in the District's Preliminary Plan described in Section 2.2(b) of this Agreement.

(b) The quarterly payments will be made no later than thirty (30) days after the last business day of the last month of each fiscal year quarter. If the DistrictDMD has not received their quarterly payment from the City by that due date, the DistrictDMD shall give the City Finance Director notice in writing no later than fifteen days (15) days after that missed due date, requesting payment.

(c) The City's payments are contingent upon receipt of the DistrictDMD's Quarterly Report for each fiscal quarter, as required by Section 4.01 of this Agreement, within thirty (30) days of the end of that fiscal quarter. ~~For example, the October 31, 2012 quarterly payment is contingent on receipt of the 2012 first quarter report by the City on or before November 30, 2012.~~

(d) Any annual increase in the City's payments to the DistrictDMD may not exceed the percentage increase in ad valorem taxes received by the City over the prior year, unless mutually agreed upon by City and DMD.

~~(e) In consideration for the District's performance under the Agreement for the~~

period of August 1, 2014 through September 30, 2014, the City agrees to pay the District the sum of \$21,167.00. Thereafter the City fiscal year runs October 1 through September 30."

Section 3.03 Use of Funds

The ~~District~~DMD shall ~~maintain-use~~ funds provided under this Agreement for purposes outlined herein and no other. ~~in a separate account established for that purpose, and may not commingle City funds with any other funds.~~

a. ~~The separate account is established and clearly identified as General Fund/City Fund.~~

b. —

The funds provided for under this Agreement must be budgeted for administrative expenses.

c. ~~Monies from other District funds may be transferred to the "separate account"¹⁴ to supplement the administrative budget, as long as they are clearly identified and Board of Directors has approved the transfer.~~ [AMBS]

~~3.4 Expenditures exceeding the total budgeted contract amount must be paid from clearly identified funds of the District.~~

Section 3.045 Interest Earned

-Interest earned on funds contributed to the ~~District~~DMD by the City must be clearly identified, credited, and reflected on the books as resulting from the investment of the funds. The interest earned is available for the ~~District~~DMD's use.

Section 3.056 Fiduciary Duty

-The parties agree that receipt of these funds creates a fiduciary duty of the ~~District~~DMD.

Section 3.067 Audit Requirement

The ~~District~~DMD shall provide an independent audit for expenditures of funds allocated under this agreement for each year based on its fiscal year. The ~~District~~DMD shall provide a copy of the independent audit to the City Manager within one hundred twenty (120) days after the end of the ~~District~~DMD's fiscal year, as an addendum to the Annual Report. ~~The City has the right to its own audit of funds provided under this agreement, with appropriate prior notice to the DMD.~~

Section 3.07-8 Generally Accepted Accounting Principles

The accounting records and independent audit must conform to the accounting standards as promulgated by a Certified Public Accountant under Generally Accepted Accounting ~~Standards-Principles~~ ("GAAP~~S~~") and to the requirements of applicable state law, so as to include a statement of support, revenues and expenses, and balance sheets for all funds.

~~3.9 Any funds provided by the City that are not expended during the District's fiscal year must be returned to the City with the copy of the District's independent audit.~~

Section 3.103.08 Financial Records

- The books of account of the funds held by the ~~District~~DMD must be maintained in a form approved by the City's Director of Finance, and must be available for inspection and copying by the Director, or the Director's authorized agents and representatives, during regular business hours of the ~~District~~DMD. Records must be maintained for at least 3 years after the expiration or termination of this agreement.

~~3.11 The District shall reimburse the City for any funds provided under this Agreement that are expended on anything that is not specifically authorized by this Agreement.~~^[AMBG]

~~3.12 If the District undertakes any special projects at the request of the City Council, the City will reimburse the District for its expenses, but not including the reimbursement for the time of District employees or other administrative expenses, within 30 days from billing by the District.~~

Article IV. PERFORMANCE REPORTS & MEASUREMENT.

Section 4.01. Performance Reports:

The ~~District~~DMD shall report quarterly to the City Council on its activities and work accomplished. The ~~District~~DMD shall make any special presentations or prepare specific reports, if requested by the members of the City Council, within thirty (30) days of a request.

~~4.2~~The Quarterly Performance Report is due within thirty (30) days after the end of each fiscal quarter and should include:

- a. A description of each project undertaken by the ~~District~~DMD in fiscal quarter.
- b. The status of projects.
- c. The amounts expended on each project.
- d. The accomplishments of its performance measures for the fiscal year, as specified in Article V of this Agreement.

Section 4.02 Annual Report

The DMD shall be deemed to have met its performance requirements for the fiscal year upon accomplishment of the objectives outlined in Section 2.01 of this Agreement. The DMD will prepare an Annual Report summarizing the accomplishments of the year.

V. PERFORMANCE MEASURES.

~~5.1 The District shall be deemed to have met its performance requirements for the fiscal year upon accomplishment of the following:~~

a. Formation and staffing of a residential development task force, to assist developers of property within the district.

1. Production and distribution of marketing materials on opportunities for residential investment.

2. Work cooperatively with the City's designee to promote redevelopment of downtown.

3. Work as a liaison with developers regarding code enforcement issues and requirements, and provide contact information for various City services (e.g., Neighborhood Services, Development Services, and Economic Development).

4. Support the City's efforts to educate downtown owners on local code enforcement requirements.

5. Identify downtown development needs and proactively work with the City's designee in addressing those issues.

b. Operate a Downtown Merchants Association Cooperative Marketing program.

1. Budget no less than five thousand dollars (\$5,000.00) for joint advertising for Downtown merchants.

2. Devise and produce cooperative marketing for Downtown retailers.

3. Report issues and concerns expressed by Downtown merchants.

c. The value of property within the District increases from the previous fiscal year due to new construction, improvements, or rehabilitation of property within the District.

d. The District supports the City's Economic Development program to implement approved Council actions related to downtown improvements, including supporting the City's efforts with the annual Adopt Downtown project.

e. The District provides quarterly reports concerning economic, commercial, and demographic data within the District to the City Manager or their designated representative.

f. The District continues to improve the cleanliness, landscaping, event activities, marketing, and park enhancement projects currently underway.

g. Increase taxable retail sales within the district. The District must obtain the required sales tax reports from the State Comptroller's Office. [AMB7]

Article VI. MISCELLANEOUS

Section 5.06-1. Implementation.

The City Manager and Executive Director for the ~~District~~DMD are authorized and directed to take all steps necessary or convenient to implement this Agreement.

Section 5.06-2. Warranty.

This Agreement has been officially authorized by the governing body of the City and the ~~District~~DMD, and each signatory to this Agreement guarantees and warrants that the signatory has full authority to execute this Agreement and to legally bind their respective party to this Agreement.

~~6.3. Administrative Services. The City and the District agree to provide administrative services necessary to coordinate this Agreement, including providing the other party with a current list of contact information for each party.~~

Section 5.036-4. Expending Funds.

Any payment made by the ~~District~~DMD or the City for any of the costs or expenses that either incurs under this Agreement must be made out of current revenues available to the paying party as required by the Interlocal Cooperation Act.

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then City shall have the right to terminate this Agreement without penalty by giving prior written notice documenting the lack of funding, in which instance unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. City agrees that it will make its best efforts to obtain sufficient funds including, but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations hereunder in full.

Section 5.04 6.5 Term of Agreement.

The effective date of this Agreement ("Effective Date") is ~~August 1, 2011~~October 1, 2015, after the last approval by one of the Parties, -

- ~~a. Once approved by all Parties, this Agreement is~~ for a term of one year, ~~and~~ and automatically renewings annually, unless either party cancels its participation by giving written notice to the other parties at least sixty days before the end of each annual term. -

The continuation and renewal of this agreement is contingent upon the continued existence of the ~~District~~DMD.

- ~~b. The term ending July 31, 2014 is extended to September 30, 2014. Thereafter, the annual term of the Agreement is adjusted to run October 1 through September 30.~~

Section 5.05 ~~6.6~~ Severability.

If any portion of this Agreement, or its application to any person or circumstance, is ever held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Agreement is not affected and continues to be enforceable under its terms.

Section 5.06 Nondiscrimination.

DMD and any subcontractors shall not discriminate against any employee or independent contractor to be utilized in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment, because of race, religion, color, sex, age, handicap, disability, national origin, ancestry, disabled veteran status or Vietnam-era veteran status. Breach of this section shall constitute a material breach of this Agreement.

~~6.7 Oral and Written Agreements. All oral or written Agreements between the Parties relating to the subject matter of this Agreement, which were developed prior to the execution of this Agreement, have been reduced to writing and are contained in this Agreement.~~

~~6.8. Not for Benefit of Third Parties. This Agreement and all activities under this Agreement are solely for the benefit of the Parties and not the benefit of any third party.~~

Section 5.07 Waiver.

City's delay or inaction in pursuing remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of City's rights or remedies contained herein or available by law.

Section 5.08 ~~6.9~~ Immunity Not Waived.

Nothing in this Agreement is intended, nor may it be deemed, to waive any governmental, official, or other immunity or defense of any of the Parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.

Section 5.09 Competitive Procurement.

In regards to expenditures made in furtherance of this agreement, DMD shall utilize a competitive bidding process as required by state law when making expenditures in excess of \$50,000 for any single contract or for expenditures in excess of \$50,000 in the aggregate for any contract. DMD shall not avoid the application of competitive bidding by purposely dividing a single purchase into smaller components so that each component purchase is less than \$50,000 or make component, sequential or incremental purchases to avoid the competitive bidding requirements.~~6.10 Breach. Any breach of this Agreement now or through the term shall render the Agreement null and void.~~^[AMB8]

Section 5.10~~6.11~~ Notices.

Any notice, correspondence or payment made pursuant to this Agreement shall be sent by first-class US mail, addressed to: must be made by (a) depositing the same in the United States mail, postage prepaid, addressed as follows, or (b) delivering the same to the other Party. Any notice given in accordance with (a) shall be effective upon deposit in the United States mail, and the addresses of the Parties shall, until changed by written notice, be as follows:

To the City:

Ron Olson

City Manager

City of Corpus Christi ~~City Manager~~

P. O. Box 9277

Corpus Christi, Texas 78469-9277

To the District:

Terry Sweeney

Executive Director

Corpus Christi Downtown Management District

~~Attn: President~~

223 N. Chaparral, Suite A

Corpus Christi, Texas 78401

Section 5.11~~6.12~~. Amendments or Counterparts.

This Agreement may not be amended except by written Agreement approved by the governing bodies of the Parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original all of which shall constitute but one and the same instrument.

Section 5.12~~6.13~~. Modifications.

No officer or employee of any of the Parties may waive or otherwise modify the terms in this Agreement, without the express action of the governing body of the Party.

Section 5.13~~6.14~~. Captions.

Captions to provisions of this Agreement are for convenience and shall not be considered in the interpretation of the provisions.

Section 5.14~~6.15~~. Governing Law and Venue.

This Agreement is be governed by the laws of the State of Texas. Venue for an action arising under this Agreement is in Nueces County, Texas.

~~6.16. Approval. All Parties identified below agree to the provisions and terms of this Agreement.~~

EXECUTED to be effective as of this _____ day of _____, 2015.

CITY OF CORPUS CHRISTI

CORPUS CHRISTI DOWNTOWN
MANAGEMENT DISTRICT

By:

Ronald L. Olson

City Manager

Date:

By:

Terry Sweeney

Executive Director

Date: _____

ATTEST:

Rebecca Huerta,
City Secretary

Approved as to Form
City Attorney's Office