

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 24 June 2013
SUBJECT: Agreement with Agribusiness Henderson County, Inc.
PRESENTER: David Whitson
ATTACHMENT(S): Draft agreement

SUMMARY OF REQUEST:

Attached is a draft agreement for operations with the newly created non-profit corporation Agribusiness Henderson County, Inc.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Agreement.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve and executed the draft agreement with Agribusiness Henderson County, Inc.

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

AGREEMENT

THIS AGREEMENT is made this _____ day of June, 2013, by and between the County of Henderson, a body corporate and politic of the State of North Carolina, and Agribusiness Henderson County, Inc., a North Carolina non-profit corporation.

Statement of Circumstances

1. The County of Henderson ("the County") is permitted to contract with entities to carry out any public purpose which the County could otherwise perform, pursuant to N.C. Gen. Stat. §153A-449.
2. Agribusiness Henderson County, Inc. ("the Corporation") was formed to engage in activities that enhance economic opportunities in agriculture and Agribusiness for the citizens of the County, including creating and retaining quality jobs and growing the County's Agribusiness and preserving family farms. The Corporation's purpose is to promote the common Agribusiness interests of the citizens of Henderson County.
3. The purposes of the Corporation are found by the Board of Commissioners of the County to be public purposes, and the County desires to assist the Corporation in its purposes, as stated herein.

Statement of Agreement

1. The Company will seek to enhance and encourage the business of agriculture and related endeavors in the County for both large and small farms and farmers, as well as establishments dealing with locally-grown products. As used herein, agriculture is to include its broadest definition, expressly including but in no way limited to silviculture, horticulture, aquaculture, and the like.
2. The County will:
 - A. Provide suitable office space, in the County's discretion, with all utilities, for the Corporation.
 - B. Pay the all or a portion of salary, with like proportion of all benefits (and other costs of employment, including attributed telecommunications cost) of a regular employee of the County (hereafter "employment cost"), up to but not exceeding the amount budgeted by the Board of Commissioners of the County for such purpose, of the Corporation's chief executive officer ("the CEO").
 - C. Provide reasonable cash management for an agency account maintained by the Henderson County Finance Office on behalf of the Corporation, as stated below.

3. Term: This agreement shall be for a term of one year, from the period 1 July 2013 through 30 June 2014, but shall automatically renew unless either party gives the other at least three months' notice of intent to non-renew at the end of the County's fiscal year.

4. The County's obligations to pay the cost of performing its obligations under this Agreement shall be subject to and dependent upon appropriations being made from time to time by the Board of Commissioners of the County for such purpose.

5. Usage of funds and accounts:

A. As stated above, the County will maintain an agency account on behalf of the Corporation.

B. In addition, the County will show a County general fund line item for the employment expense (salary, all benefits and all attributed costs as shown for any other employee of the County) of the CEO.

C. The County will show as a revenue item from the agency account payable to the general account line item with the CEO employment expense an amount sufficient to fund the difference between the CEO employment expense and the amount appropriated by the Board of Commissioners for such purpose.

D. The agency account for the Corporation will show an amount payable for the revenue item, and an account receivable for contributions from members or other contributors of the Corporation.

E. All funds received by the Corporation will flow through the agency account, and will be expended only in accord with County policies. Requests for expenditures from this fund shall be made on a form supplied by the County's Finance office, and be signed by the Company's CEO and a designated member of the Corporation's governing board. It is anticipated that these funds will be used to provide the revenue item referred to above, to pay necessary expenses of the Corporation, and to fund projects of the Corporation in accord with its purpose.

F. The Finance Director of the County, to the extent allowed by the County's annual Budget Ordinance, may temporarily transfer from the County's general fund a up to one-third (1/3) of the amount appropriated by the Board of Commissioners of the County for funding the CEO employment expense to the agency account to be used to pay expenses of the Corporation. However, in no account may the total amount transferred or encumbered by earned or attributed employment expense of the CEO exceed the sum of the amount appropriated by the Board of Commissioners of the County and any funds existing in the County's general fund which were transferred there from the agency account for the Corporation for this purpose. Further, if the amount remaining in the County's general fund for the purpose of payment of the cost of the employment of the Corporation's CEO is significantly less than expected cost of the same for the balance of the County's fiscal year, the Finance Director shall place the issue back before the Board of Commissioners at their next scheduled meeting.

6. If the Corporation violates any of the provisions of this Agreement, the County may terminate this Agreement (upon thirty (30) days written notice of the same to the Corporation). In such event, all unexpended funds at the time of such termination, whether held by the Corporation or the County, shall be the property of and be returned to (or remain with) the County.

7. The Corporation shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement without prior written consent of the County.

8. In connection with the performance of this Agreement, the Corporation shall not discriminate against any employee, applicant for employment, or program participant because of race, religion, color, sex, age, handicap, or national origin, or on account of their limited English language proficiency.

9. The Corporation shall maintain all accounts, books, ledgers, journals, and records in accordance with generally accepted accounting principles, practices and procedures.

10. The Corporation shall submit to the County a semi-annual status report in January of each year, and an annual status report in July of each year, of all program activities including a summary of the accomplishment of stated goals and objectives.

11. Should the County in the future elect to provide direct funds to the Corporation in lieu of the salary or use of space or agency account provided above, the Corporation shall provide an accounting of such County funds to the County to demonstrate that funds allocated to the Corporation have been used for the purpose(s) specified herein. The accounting report shall be submitted to the County within 30 days of the end of the contract term. Further, the County shall be entitled to audit the Corporation's expenditure of County funds at the County's discretion. Any excess funds or funds not used for the expressed purpose(s) stated herein must be returned to the County within thirty (30) days of the County's request for said funds.

12. The County shall be entitled to conduct an evaluation of the Corporation's programs and activities particularly as it relates to the accomplishments of established goals and objectives and the measurement of services being delivered.

13. All books and records shall be maintained by the Corporation for a period of at least three years from the date of the final payment under this Agreement and shall be made available for audit or evaluation upon request during regular business hours of the Corporation.

14. The Corporation must adopt a Drug-Free Workplace Policy in accordance with the Drug-Free Workplace Policy of 1988 (41 U.S.C. 701).

15. The County is in no way responsible for the administration and supervision of the Corporation's officers, employees, and agents.

16. The Agreement may only be amended by written amendments mutually agreed upon by and between the County and the Corporation.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their name by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

ATTEST:

COUNTY OF HENDERSON

Clerk to the Board of Commissioners

By: CHARLIE MESSER, Chairman
Board of Commissioners

AGRIBUSINESS HENDERSON COUNTY, INC.

By: [printed name]
Corporate President

ATTEST:

Corporate Secretary

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

County Finance Director

Date