

MEMORANDUM OF AGREEMENT

August 12, 2024

TO: Hugh Walker
City of Bryan

FR: Thomas Graham
Crosswind Media & Public Relations

RE: Scope of Work for an Economic Development Plan

Dear Mr. Walker,

Thank you for taking the time to visit with my team and for considering Crosswind Media & Public Relations to support you and The City of Bryan in your economic development communications strategies.

As we discussed, our agency has effectively supported the positioning strategies of successful economic development initiatives throughout Texas, including for Texas A&M University System, the state of Texas in its pursuit of ARPA-H, and for the Texas Research Quarter [initiative](#) in Plano. We look forward to helping position the City of Bryan favorably toward its goals.

Below is a proposed scope of work along with pricing for your consideration. Beginning immediately, we will audit communications and marketing materials and provide within thirty (30) days recommendations for best practices and strategies for your consideration. We will review brand, media, and digital presence to enhance current effectiveness.

We propose the following communications activities to support your economic development strategies that will include the following and to provide and enhance the opportunities available to the City of Bryan:

1. Communications & Marketing Audits
2. Message & Research Strategies
3. Recommendations and Best Practices
4. On-going Communications Support

We look forward to gaining your trust over the six months as we work together to advance your goals and expand your reach and effectiveness of your messaging.

Below are the specific terms of our agreement:

Scope of Work:

This scope of work outlines the message/research strategies and communications support services that Crosswind will provide for a monthly account service fee. Crosswind will also provide a message

development document, media training, and a social media handbook for the additional one-time fees as indicated below.

Budget/Fees:

	Monthly	Total
Monthly account service fee includes: Communications Audit, Message/Research Strategies & Recommendations, and on-going communications support	\$12,500	\$75,000
Three Communications Modules (each upon delivery)	\$8,000 (3)	\$24,000
TOTAL		\$99,000

Period of Agreement:

The period of this agreement will be for six months, effective immediately upon the return of this signed contract from August 19, 2024, to February 28, 2025. This agreement will remain in full force and effect and the rights, duties, and responsibilities of Crosswind and the City of Bryan shall continue. Cancellation of the contract will require thirty (30) days’ notice by either party.

Fees, expenses and billing:

Fees, expenses, and billing: Crosswind has a “know-before-you-owe” policy that consistently serves our clients by ensuring that significant projects and/or costs are agreed upon in advance and approved, in writing, before proceeding. This eliminates all surprises. The first month’s account service fee of \$12,500 is due upon signing the contract and invoice receipt.

Expenses will be billed in the subsequent month in which the expense is incurred. Crosswind invoices, including advances and other expenses owed, will be billed on the first day of the month for which service is provided, and invoices are due and payable upon receipt.

The total amount of \$99,000 is the not to exceed amount, inclusive of all costs.

Expenses and third-party contracts:

Any fees and expenses for incidental expenses which are not covered by these monthly retainers must be approved by the City of Bryan or the appropriate representative prior to those fees or expenses being incurred by Crosswind, except for out-of-pocket expenses incurred in the normal course of executing the responsibilities outlined in the Scope of Work section. Out-of-pocket expenses may include fees incurred in service to this contract, such as mileage, parking, tolls, and messengers, printing, mailing, taxi, rideshare or any similar project related expense not associated with Crosswind’s ordinary business operations. Incidental expenses requiring advance authorized representative approval may include such items travel costs, graphic design, mailing, media wire services, and public surveys. The City of Bryan or the appropriate representative assumes full liability and responsibility for any expenditure resulting from agreements it has authorized Crosswind to enter for services from third-party vendors.

Confidentiality, Non-Disclosure, and Non-Solicitation:

Each party (the “Receiving Party”) will treat as confidential and properly safeguard any and all information, documents, papers, programs and ideas relating to the other party (the “Disclosing Party”), its operations, finances and products, disclosed to the Receiving Party and designated by the Disclosing Party as confidential or which should be reasonably understood to be confidential (“Confidential Information”). Each party may disclose Confidential Information when required pursuant to the Texas Public Information Act or similar statute or an order or requirement of a court, administrative agency, or

other governmental body. In the course of performing the Services, the Agency may disclose Confidential Information as the City of Bryan shall have approved for disclosure. Information obtained from third parties shall not be subject to this Agreement. This provision shall survive the termination of this Agreement and shall remain in full force and effect for a period of one (1) year following the completion of Services. Additionally, during the term hereof and for a six-month period thereafter, neither party shall solicit, employ or attempt to employ, directly or indirectly (whether employee, consultant or otherwise) any employee of the other party (or any former employee whose employment terminated within the previous six months) without the other party's prior written consent.

Compliance with Laws; Indemnification:

Crosswind shall comply with all applicable laws and regulations in the performance of its services. Crosswind shall indemnify and hold harmless the City of Bryan, including Affiliates and each of their respective officers, trustees, directors, agents, shareholders, employees, representatives, successors, and related companies and assigns from and against all Claims of Third Parties, and all associated Losses (judgments, damages, costs, expenses and fees), to the extent arising out of (a) a Party's gross negligence or willful misconduct in performing any of its obligations under this Agreement, or (b) a material breach by a Party of any of its representations, warranties, covenants, or agreements under this Agreement. Again, thank you for the opportunity to work with you.

Firm's Insurance:

Crosswind agrees to have and maintain the policies set forth in Exhibit A, Insurance Requirements, which is attached hereto and incorporated herein. All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Bryan as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City of Bryan. A lapse in any required coverage shall be a breach of this Contract.


Basic Safeguarding of Crosswind Information Systems:

Crosswind shall apply basic safeguarding requirements and procedures to protect the Crosswind's information systems whenever the information systems store, process, or transmit any information, not intended for public release, which is provided by or generated for the City of Bryan. This requirement does not include information provided by the City of Bryan to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" as are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016). Crosswind shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City of Bryan contract information residing in or transiting through its information system.

Please return one copy of this contract with your signature as an indication of your agreement to the terms of this letter.

[SIGNATURE PAGE FOLLOWS]

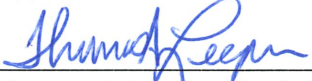
On behalf of Crosswind Communications, LLC
dba Crosswind Media & Public Relations):

By: 
Name: Thomas Graham
Title: President & CEO
Date: 8/12/2024

On behalf of City of Bryan:

By: 
Name: Kean Register
Title: City Manager
Date: 8/14/2024

Approved as to Form:


Thomas A. Leeper, City Attorney

Case Studies

ARPA-H / CHART



Challenge

Create a statewide coalition and campaign to bring the headquarters of a billion-dollar NIH program, the Advanced Research Projects Agency for Health (ARPA-H), to Texas.

Strategies

Crosswind helped create The Coalition for Health Advancement and Research in Texas (CHART). This coalition includes the Texas Medical Center, the Cancer Prevention and Research Institute of Texas (CPRIT), The University of Texas MD Anderson Cancer Center, the University of Texas System, Texas A&M Health, and other significant health and education institutions across Texas.

Our team is coordinating and working closely with local city leaders across Texas, the Governor's office, the Texas congressional delegation, and the federal government on this initiative.

We have worked closely with the members of the Texas congressional delegation in sending two letters of support to Department of Health and Human Services Secretary Xavier Becerra. CHART worked with members from both political parties to develop one letter from the Republican members led by Congressmen Burgess Crenshaw and one from Democratic members led by Congresswoman Fletcher.

Crosswind is also leading the media outreach efforts for CHART and has generated news coverage from state and nation publications.

Result

With the creation of CHART, Texas was the first state to organize and launch a full-scale campaign working specifically to attract the headquarters of ARPA-H.

Texas makes case to Biden to host new medical research agency distributing billions in funding

Texas wants to be home to the Biden administration's new biomedical research agency

A coalition of research advocates proposed different locations across the state for the new \$1 billion health office.

EXCLUSIVE

STAT+

Biden's high-stakes biomedical science agency ARPA-H will be part of the NIH — but there's a twist

Proprietary & Confidential

Crosswind Media & PR

EXHIBIT A – Insurance Requirements

CROSSWIND agrees to maintain the minimum insurance coverage and comply with each condition set forth below during the duration of this contract with the City of Bryan. All parties to this contract hereby agree that the Contractor's coverage will be primary in the event of a loss, regardless of the application of any other insurance or self-insurance.

CROSSWIND must deliver to the City of Bryan a certificate(s) of insurance evidencing such policies are in full force and effect within ten (10) business days of notification of the City of Bryan's intent to award a Contract. No contract shall be effective until the required certificate(s) have been received and approved by the City of Bryan. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within ten (10) business days **may cause the contract to be rejected**.

The City of Bryan reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent.

- A. **Workers' Compensation Insurance & Employers' Liability Insurance** – CROSSWIND, for any employees, shall maintain Workers' Compensation insurance for statutory limits and Employers' Liability insurance with limits not less than \$500,000 each accident for bodily injury by accident or \$500,000 each employee for bodily injury by disease. CROSSWIND shall provide Waiver of Subrogation in favor of the City of Bryan and its agents, officers, officials, and employees.
- B. **Commercial General Liability Insurance** - CROSSWIND shall maintain Commercial General Liability (CGL) with a limit of not less than \$1,000,000 per occurrence and an annual aggregate of at least \$2,000,000. CGL shall be written on a standard ISO "occurrence" form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. No coverage shall be deleted from the standard policy without notification of individual exclusions and acceptance by the City of Bryan. The City of Bryan and its agents, officers, officials, and employee shall be listed as an additional insured.
- C. **Business Automobile Liability Insurance** – **For any company owned vehicles**, CROSSWIND shall maintain Business Automobile Liability insurance with a limit of not less than \$1,000,000 each accident. Business Auto Liability shall be written on a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. CROSSWIND shall provide Waiver of Subrogation in favor of the City of Bryan and its agents, officers, officials, and employees.

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- D. **Professional Liability Insurance** - CROSSWIND shall maintain Professional Liability (errors & omissions) insurance with a limit of not less than \$1,000,000. If written on a "Claims-Made" form, CROSSWIND agrees to maintain a retroactive date equivalent to the inception date of the contract (or earlier) and maintain continuous coverage or a supplemental extended reporting period for a minimum of two years after the completion of this contract. CROSSWIND will be responsible for furnishing certification of coverage for two (2) years following contract completion.
- E. **Policy Limits** - Required limits may be satisfied by a combination of primary and umbrella or excess liability policies. CROSSWIND agrees to endorse City of Bryan and its agents, officers, officials, and employees as an additional insured, unless the Certificate states the Umbrella or Excess Liability provides "True Follow Form" coverage.
- F. **Deductibles, Coinsurance Penalties & Self-Insured Retention** - CROSSWIND may maintain reasonable and customary deductibles, subject to approval by the City of Bryan. CROSSWIND shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention.
- G. **Subcontractors** - If the CROSSWIND's insurance does not afford coverage on behalf of any Subcontractor(s) hired by the CROSSWIND, the Subcontractor(s) shall maintain insurance coverage equal to that required of the CROSSWIND. It is the responsibility of the CROSSWIND to assure compliance with this provision. The City of Bryan accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.
- H. **Acceptability of Insurers** - Insurance coverage shall be provided by companies admitted to do business in Texas and rated A- or better by AM Best Insurance Rating.
- I. **Evidence of Insurance** – A valid certificate of insurance verifying each of the coverages required shall be issued directly to the City of Bryan within ten (10) business days by the successful CROSSWIND's insurance agent or insurance company after contract award. Endorsements must be submitted with the certificate. No contract shall be effective until the required certificates have been received and approved by the City of Bryan. Renewal certificates shall be sent a minimum of ten (10) days prior to coverage expiration. Upon request, CROSSWIND shall furnish the City of Bryan with certified copies of all insurance policies. The certificate of insurance and all notices shall be sent to:

City of Bryan
Risk Management
PO Box 1000
Bryan, TX 77805
Emailed to: lward@bryantx.gov

Failure of the City of Bryan to demand evidence of full compliance with these insurance requirements or failure of the City of Bryan to identify a deficiency shall not be construed as a waiver of CROSSWIND's obligation to maintain such insurance.

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- J. **Notice of Cancellation, Non-renewal, Material Change, Exhaustion of limits** – CROSSWIND must provide minimum thirty (30) days prior written notice to the City of Bryan of policy cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage. If City is notified a required insurance coverage will cancel or non-renew during the contract period, the CROSSWIND shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City of Bryan reserves the right to withhold payment to CROSSWIND until coverage is reinstated.

- K. **CROSSWIND's Failure to Maintain Insurance** – If the CROSSWIND fails to maintain the required insurance, the City of Bryan shall have the right, but not the obligation, to withhold payment to CROSSWIND until coverage is reinstated or to terminate the Contract.

- L. **No Representation of Coverage Adequacy** - The requirements as to types and limits, as well as the City of Bryan's review or acceptance of insurance coverage to be maintained by CROSSWIND, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the CROSSWIND under the Contract.

[END OF EXHIBIT A]