

K20-907

**AMENDMENT NO. 3 TO CONTRACT
BETWEEN
THE CITY OF NEW ORLEANS
AND
BRAUN INDUSTRIES, INC.**

THIS THIRD AMENDMENT (the “**Amendment**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Braun Industries, Inc., represented by Kim Braun President of U.S. Operations (the “**Contractor**”). The City and the Contractor are sometimes collectively referred to as the “**Parties**.” The Amendment is effective as of December 14, 2019 (the “**Effective Date**”).

RECITALS

WHEREAS, on December 14, 2016, the City and the Contractor entered into a contract for the contractor to provide emergency medical care ambulances and related maintenance and support services (the “**Agreement**”);

WHEREAS, the City and the Contractor previously amended the Agreement two times to ensure continuity of service; and

WHEREAS, the City and the Contractor, each having the authority to do so, now desire to enter this Amendment to extend the term of the Agreement, as amended, for the purpose of continuity of services.

NOW THEREFORE, for good and valuable consideration, the City and the Contractor amend the Agreement, as amended, as follows:

1. **Extension.** In accordance with the original Agreement, the term is extended for an additional one year from the Effective Date through December 13, 2020.
2. **Price.** The City and Contractor reaffirm the price proposal submitted by the Contractor in response to the City’s Invitation to Bid N. 3665-02034.
3. **Additional Miscellaneous Provisions.** The following terms and conditions are added to the Agreement:

FORCE MAJEURE

A. **Event.** An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of

City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. Braun Industries shall not be liable or responsible to the City, nor be deemed to have defaulted or breached these Terms and Conditions, for any failure or delay in fulfilling or performing any of these Terms and Conditions when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Braun Industries including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities, terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), restraints or delays affecting carriers, inability or delay in obtaining supplies of adequate or suitable materials, or telecommunication breakdown, or power outage.

C. **Notice.** To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended

D. **Effect.**

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Contractor and without any further compensation due.
2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

4. **Convicted Felon Statement.** The Contractor swears that it complies with City Code § 2-8(c). No Contractor principal, member, or officer has, within the preceding five years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

5. **Cost Recovery.** In accordance with Section 2-8.1 of the Municipal Code entitled “Cost recovery in contracts, cooperative endeavor agreements, and grants,” to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.
6. **Non-Solicitation Statement.** The Contractor swears that it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Amendment. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment.
7. **Prior Terms Binding.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.
8. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Amendment.

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[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized representatives, execute this Amendment.

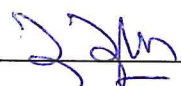
CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 16TH of April, 2021

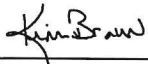
FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Tracy Taylor

BRAUN INDUSTRIES, INC.

BY: 
KIM BRAUN, PRESIDENT OF U.S. OPERATIONS


FEDERAL TAX I.D.