

K20-825

AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

BAROWKA AND BONURA ENGINEERS AND CONSULTANTS, L.L.C.

THIS FOURTH AMENDMENT (the “**Amendment**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Barowka and Bonura Engineers and Consultants, L.L.C., represented by Jeffrey A. Bonura, Partner (the “**Contractor**”). The City and the Contractor are sometimes collectively referred to as the “**Parties**.” The Amendment is effective as of January 16, 2017 (the “**Effective Date**”).

RECITALS

WHEREAS, on January 16, 2017, the City and the Contractor entered into a professional services agreement for preparation and submission of applications for funding from FEMA’s Hazard Mitigation Assistance programs (the “**Agreement**”);

WHEREAS, the City and the Contractor have amended the Agreement three times to ensure continuity of services; and

WHEREAS, the City and the Contractor, each having the authority to do so, now desire to enter this Amendment to ensure continuity of services by amending the City’s and Contractor’s obligations to clarify the intent of the Parties.

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

1. **Schedule**. The Contractor’s obligations under Article I, Section D (1) are deleted in their entirety and replaced with the following obligation: Contractor will provide support to the City on an as-needed basis to ensure compliance with FEMA’s Hazard Mitigation Program requirements. Contractor may perform such work after written authorization from the City (either through a formal task order, or informal e-mail request), or after notifying the City of the need to complete a task that is necessary for continued compliance with FEMA Hazard Mitigation Program requirements (either through a formal written request for task order or informal e-mail communication).
2. **Invoices**. The following obligation is added to Article I, Section E as sub-section 4: Invoices for work performed without prior authorization by the City shall be reviewed to ensure the work meets the following conditions: a) it was necessary for compliance with FEMA Hazard Mitigation Program requirements; b) is related to the Contractor’s obligations under the Request for Proposals or Agreement; c) the City has approved the completed task; and d) the Contractor provided the most cost-effective rate for completion of the task.
3. **Payment and Invoicing through the City’s Supplier Portal**. The City and Contractor agree to add the following language related to payment and invoicing under the Agreement:
 - A. The Contractor must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods

or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice.

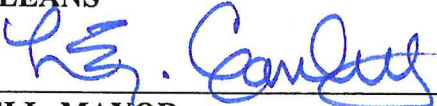
- B. Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed (if required), rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City's supplier portal.
4. **Compensation.** The compensation rate provided in Article IV Section A of the Agreement is amended to add the following language as sub-section 5: the Contractor may charge either a flat-rate or hourly fee for any task performed under the Agreement provided that it is the lowest rate possible for task. If the Contractor provides an estimate for a task that ends up being greater than the alternate rate, the City may at its discretion require the Contractor to invoice at the lower rate.
 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. **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.
 7. **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.
 8. **Prior Terms Binding.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.
 9. **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 5TH of October, 2020

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Andrew Gregorian

BAROWKA AND BONURA ENGINEERS AND CONSULTANTS, L.L.C.

BY: 

JEFFREY A. BONURA, PARTNER


FEDERAL TAX I.D.