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2019-0302

FIRST AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT FOR DR15 SWAT 12A BONITA GARDENS DRAINAGE AND PAVING IMPROVEMENTS BETWEEN THE CITY OF HOUSTON AND R.G. MILLER ENGINEERS, INC.

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS FIRST AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT FOR DR15 SWAT 12A BONITA GARDENS DRAINAGE AND PAVING IMPROVEMENTS ("FIRST AMENDMENT") is made on the counter-signature date by and between the CITY OF HOUSTON, TEXAS (the "City"), a home-rule city of the state of Texas, and R.G. MILLER ENGINEERS, INC. (the "Consultant"), a Texas corporation.

RECITALS:

1. Pursuant to Ordinance No. 2017-0844 (October 25, 2017), the City and the Consultant entered into a Professional Engineering Services Agreement for DR15 SWAT 12A Bonita Gardens Drainage and Paving Improvements (the "Original Agreement").
2. The City and the Consultant now desire to amend the terms of the Original Agreement, and appropriate additional money for the Project.
3. **NOW THEREFORE**, the parties agree as follows:

ARTICLE I.

Section 3.4, "Limit of Appropriation", of Article 3, "Duties of City", of the Original Agreement is deleted in its entirety and replaced with the following:

3.4 Limit of Appropriation. Engineer recognizes that under certain provisions of the Charter of the City of Houston, the City may not obligate itself by contract to an extent in excess of an amount appropriated by the City Council and further recognizes that only \$961,064.00 has been appropriated and budgeted by City Council to pay the Cost of Basic Services hereunder and that only

\$358,936.00 has been appropriated and budgeted by the City Council to pay the cost of Additional Services hereunder for a total amount of \$1,320,000.00.

- 3.4.1 In the event the appropriation for Basic Services is insufficient to compensate Engineer for Basic Services, Engineer shall suspend its Basic Services at such time as the total appropriation for Basic Services is expended, but shall resume such Basic Services, if and when authorized by the Director as provided elsewhere herein, upon transfer of funds by the Director or appropriation of additional funds by the City Council for Basic Services.
- 3.4.2 In the event the appropriation for Additional Services is insufficient to compensate Engineer for authorized Additional Services in accordance with the payment provisions of Article 3 hereof, Engineer shall suspend its Additional Services at such time as the total appropriation for Additional Services is expended, but shall resume such Additional Services, if and when authorized by the Director as provided elsewhere herein, upon transfer of funds by the Director or appropriation of additional funds by the City Council for Additional Services.
- 3.4.3 The Director may authorize the transfer of funds between Basic Services and Additional Services when necessary to continue services by issuing a Supplemental Notice to Proceed, provided that the transfer of funds does not exceed 25% of the Negotiated Lump Sum in the original Notice to Proceed and total funds authorized do not exceed the total amount appropriated by City Council.

ARTICLE II.

Except as modified under this First Amendment, the Original Agreement will remain in full force and effect. In the event of a conflict between the Original Agreement, and this First Amendment, this First Amendment shall prevail.

Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

R.G. MILLER ENGINEERS, INC.

By: *Jason P. Miller*
Title: PRESIDENT

ATTEST/SEAL (if a corporation)
WITNESS (if not a corporation)

By: *[Signature]*
Name: URS RATHGER
Title: CHIEF FINANCIAL OFFICER

CITY OF HOUSTON, TEXAS

By: *[Signature]*
By: *Ammanda Washington*
Mayor 5-2-19

ATTEST/SEAL:

[Signature]
City Secretary **Assistant**

APPROVED:

Carl Hallock
Director, Houston Public Works *ex*

COUNTERSIGNED BY

[Signature]
City Controller *Jerald Pelt*

DATE COUNTERSIGNED:

5-10-19

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
L.D. No. 06717 00034002



CITY OF HOUSTON

Interoffice

Houston Public Works

Correspondence

To: Martin Buzak, Esq.
Section Assistant City Attorney
Section Chief
4th Floor, Legal Department

From: Senior Assistant Director

Capital Projects

Date: June 25, 2018

Subject: REQUEST FOR AN ORDINANCE FOR
AMENDMENT TO THE PROFESSIONAL
ENGINEERING SERVICES CONTRACT
FOR DR15 SWAT 12A BONITA GARDENS
DRAINAGE AND PAVING
IMPROVEMENTS
WBS NO. M-420HUD-012A-3
LTS NO. 19387

Attached is a copy of the draft "Request for Council Action" (RCA) for the above subject project. Please prepare the necessary ordinance to the contract.

If you have any questions, please contact Kevin Hammond at 832-395-2275.

A handwritten signature in black ink, appearing to read "Cheryl Harris", with a long horizontal stroke extending to the right.

Cheryl Harris

CH:afm

Attachment: Legal Package

ec: Michael Y. Ereti, P.E.

Legal Request Package for an Amendment to an Agreement or Engineering Contract

No.	Document	Description	Section Check-Off (DATE)	SSE Check-Off (DATE)	Comments
✓ 1	Memorandum to Legal Department	Interoffice Correspondence (IOC) from Senior Assistant Director to Randy Rivin or other Senior Assistant City Attorney, as appropriate.		✓	
✓ 2	This Checklist	This is the appropriate relative location of this document in the Legal Package		✓	
✓ 3	Draft RCA	LTS# included on RCA.		✓	
4	Waiver of MWBE Goal Memo/Letter	If applicable; Must be approved by OBO/Note that if you have a change in goal justification must be pre-approved	N/A	N/A	
5	Exhibit "A"	This is the new Project Description that goes into your original contract's Exhibit "A", if applicable to your Amendment request.	N/A	N/A	No change on project description.
✓ 6	All Past Contract Documents placed in Shared Network location	<p>PDF Files of the Original Contract, All Past Amendment(s), All Past Additional Appropriation Ordinances, RCA, NTP Letters etc as applicable, placed on the Network according to the following requirements:</p> <ol style="list-style-type: none"> 1. Location: h:\design\SPECIAL PROJECTS GROUP\Contracts 2. Create a New Folder at the above Location and give it the following name: [WBS Number]. 3. Place all PDF files listed above into the folder you created. 4. Make sure the PDF file names clearly show the contents of the PDF file (i.e. "Amendment 1_[WBS Number].pdf") 			Please provide a brief justification for Additional Appropriation and provide all issued Authorizations, for Legal Review
7	Exhibit "C" Raw Salaries	This shows the new Raw Salaries that replaces your original contract's Exhibit "C", if applicable to your Amendment request.	N/A	N/A	No change on Raw Salaries.
✓ 8	Email to SPG Staff	<p>An email with the following information was sent to Maria Perez and Maria Castillo (with a copy to Cheryl Harris):</p> <ol style="list-style-type: none"> 1. Contract Information Link 		N/A	Email Subject: Include WBS Number

* Version September, 2015

Approved by PM: *[Signature]*

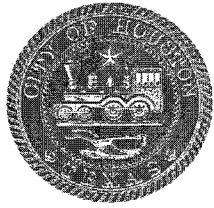
DATE 6.5.2018

Reviewed by SSE: *[Signature]*

DATE 10/4/18

Date Uploaded to WTS: 10/4/18

Additional Notes or Comments:



CITY OF HOUSTON - CITY COUNCIL

Meeting Date:
District B, District H
Item Creation Date: 10/3/2018

HPW- 20PL06 Amendment / R.G. Miller Engineers, Inc.

Agenda Item#:

Background:

SUBJECT: First Amendment to Professional Engineering Services Contract between the City and R.G. Miller Engineers, Inc., for DR15 SWAT 12A Bonita Gardens Drainage and Paving Improvements.

RECOMMENDATION: (SUMMARY) Approve First Amendment to the Professional Engineering Services Contract with R.G. Miller Engineers, Inc., transfer and allocate funds.

PROJECT NOTICE/JUSTIFICATION: This project is part of the Department of Housing and Urban Development's Community Development Block Grant – 2015 Disaster Recovery program and is necessary to reconstruct inadequate drainage systems and reduce the potential for structural flooding. This project represents how the City will use its grant allocation to support recovery in the most impacted and distressed areas included in the 2015 major disaster declaration. This project demonstrates the City's commitment to recover, rebuild, and focus on resilience for its citizens.

DESCRIPTION/SCOPE: This project consists of design and construction of storm water drainage and paving improvements and necessary utilities to serve the Bonita Gardens area.

LOCATION: The project area is generally bound by Laura Koppe Road on the north, Union Pacific Rail Road on the south, Lockwood Drive on the east, and US 59/IH 69 on the west. The project is located in Key Map Grids 454B, C, F, G, K, L, P, & Q.

PREVIOUS HISTORY AND SCOPE: Under the original Contract, all funds were allocated to Basic Services. All Phase I services have been completed. Additional Services are now required to complete the project. City Council approved the original Contract on October 25, 2017 under Ordinance No. 2017-0844. The scope of services under the Original Contract consisted of Phase I – Preliminary Design, Phase II – Final Design, Phase III – Construction Phase Services and Additional Services. Under this Contract, the Consultant completed Phase I Preliminary Design.

SCOPE OF THIS AMENDMENT AND FEE: This amendment modifies the original scope of services to transfer funds from Basic Services to Additional Services. The transfer of funds from Basic to Additional Services require more than 25% of the Negotiated Lump Sum in the original Notice to Proceed, which was appropriated by City Council. The re-allocation to PES Contract Award is requested for additional services; Surveying, Traffic Control Plan, Stormwater Pollution Prevention Plan, Drainage Studies, Subsurface Investigation, Tree Protection & Mitigation Plan, Public Meetings, and Reproduction services. An additional allocated amount of \$132,000.00 and a transfer of \$238,936.00 from Basic Services to Additional Services is now required to complete Additional Services. The Additional Service is anticipated to include design service during Phase III.

The total requested allocation is \$132,000.00 to be allocated as follows: \$120,000.00 for contract services and \$12,000.00 for CIP Cost Recovery.

PAY OR PLAY PROGRAM: The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the Contractor provides health benefits to eligible employees in compliance with City policy.

M/WBE PARTICIPATION: The M/WBE goal established for this project is 24.00%. The original Contract amount totals \$1,200,000.00. The Consultant has been paid \$736,643.84 (61.39) % to date. Of this amount, \$200,547.43 (27.22) % has been paid to M/WBE sub-consultants to date. Assuming approval of the requested Amendment, the contract amount will increase to \$1,320,000.00. The consultant proposes the following plan to meet the M/WBE goal.

<u>Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Total Contract</u>
Paid Prior M/WBE Commitment		\$ 200,547.43	15.19%
Unpaid Prior M/WBE Commitment		\$ 83,620.05	6.33%
Five Engineering, LLC	Hydraulic & Hydrologic	\$ 51,500.00	3.90%
B & E Reprographics, Inc.	Reproduction	\$ 4,027.67	0.31%
KUO Associates, Inc.	Topographic Survey	\$ 120,056.75	9.10%
TOTAL		\$ 459,751.90	34.83%

FISCAL NOTE: No significant Fiscal Operating impact is anticipated as a result of this project.

Carol Ellinger Haddock, P.E., Director
Houston Public Works

WBS No. M-420HUD-0012A-3

Prior Council Action:

Ordinance 2017-0844, dated 10-25-2017

Amount of Funding:

Total: \$132,000.00 from Fund No. 5000 – Federal Government – Grant Funded.

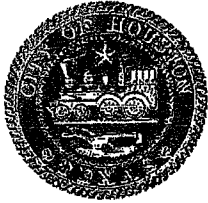
Original (previous) allocation of \$1,392,000.00 from Fund No. 5000 – Federal Government.

Contact Information:

Juan Chavira, PE, PMP, CEM
Assistant Director, Capital Projects
Phone: (832) 395-2441

ATTACHMENTS:

Description	Type
Maps	Backup Material
OBO	Backup Material
Form B - Fair Campaign Ord.	Backup Material
Affidavit of Ownership	Backup Material
Tax Report	Backup Material
Pay or Play (POP 1-3)	Backup Material
Form 1295	Backup Material
Prior Council Action	Backup Material



CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/24/2017

District B, District H

Item Creation Date: 7/27/2017

20JGC03 PES / R.G. Miller Engineers, Inc.

Agenda Item#: 37.

Background:

SUBJECT: Professional Engineering Services Contract between the City and R.G. Miller Engineers, Inc., for DR15 SWAT 12A Bonita Gardens Drainage and Paving Improvements. WBS No. M-420HUD-012A-3.

RECOMMENDATION: (SUMMARY)

An ordinance approving a Professional Engineering Services Contract with R.G. Miller Engineers, Inc., and allocate funds.

PROJECT NOTICE/JUSTIFICATION: This project is part of the Department of Housing and Urban Development's Community Development Block Grant – 2015 Disaster Recovery program and is necessary to reconstruct inadequate drainage systems and reduce the potential for structural flooding. This project represents how the City will use its grant allocation to support recovery in the most impacted and distressed areas included in the 2015 major disaster declaration. This project demonstrates the City's commitment to recover, rebuild, and focus on resilience for its citizens.

DESCRIPTION/SCOPE: This project provides for design and construction of storm water drainage and paving improvements and necessary utilities to serve the Bonita Gardens area.

LOCATION: The project area is generally bound by Laura Koppe Road on the north, Union Pacific Rail Road on the south, Lockwood Drive on the east, and US 59/IH 69 on the west. The project is located in Key Map Grids 454B, C, F, G, K, L, P, & Q.

SCOPE OF CONTRACT AND FEE: Under the scope of the Contract, the Consultant will perform Phase I - Preliminary Design, Phase II - Final Design, Phase III - Construction Phase Services and Additional Services. The Basic and Additional Services fee for the work order will be negotiated for each Phase based on the scope of services required and all Phases will be paid on a reimbursable basis with authorization not-to-exceed the agreed upon amount.

The total cost of this project is \$1,392,000.00 to be allocated as follows: \$1,200,000.00 for Contract services and \$192,000.00 for CIP Cost Recovery.

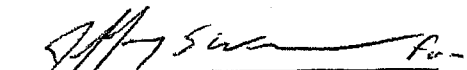
PAY OR PLAY PROGRAM: The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the Consultant provides health benefits to eligible employees in compliance with City policy.

M/WBE PARTICIPATION: The M/WBE goal for the project is set at 24%. The Consultant has proposed the following firms to achieve this goal.

<u>Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Total Contract</u>
1. Kuo & Associates, Inc.	Surveying Services	\$ 190,000.00	15.83%
2. Fivengineering, LLC	Hydraulic & Hydrologic Support	\$ 75,000.00	6.25%
3. HVJ Associates, Inc.	Geotechnical and Environmental Services	\$ 30,000.00	2.50%
4. AGC Group Inc.	Civil/Engineering Support	\$ 15,000.00	1.25%
TOTAL		\$ 310,000.00	25.83%

ESTIMATED FISCAL OPERATING IMPACT:

No significant Fiscal Operating impact is anticipated as a result of this project.


Carol Ellinger Haddock, P.E.
Acting Director
Department of Public Works and Engineering

WBS No. M-420HUD-012A-3

Amount of Funding:

\$1,392,000.00 from Fund No. 5000 – Federal Government

Contact Information:

Brian Alcott, P.E., CCM
Acting Senior Assistant Director, Capital Projects
Phone: (832) 395-2396

ATTACHMENTS:

Description	Type
Signed Coversheet	Signed Cover sheet
Maps	Backup Material
OBO Docs (Vendor Info Sheets & Letters of Intent)	Backup Material
Form A (Contractor's Submission List (doc 00452)	Backup Material
Form B - Fair Campaign Ord.	Backup Material
Affidavit of Ownership (doc 0455)	Backup Material
Tax Report	Backup Material
Pay or Play (POP 1-3)	Backup Material
Form 1295	Backup Material
SAP documents	Financial Information
Grant Funding Verification - CN	Backup Material

Controller's Office

To the Honorable Mayor and City Council of the City of Houston, Texas:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- () Funds have been encumbered out of funds previously appropriated for such purpose.
- () Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- () Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- () No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- () The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- () A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.
- (X) Other - Grant Funds Available

Jerald Holt
Jerald Holt

Date: 10-24, 2017 City Controller of the City of Houston, Texas

msb
Q
5000-2000-520106
522130
\$1,392,000.00
PRO 42-7788
F.R. 3-4273
FUND REF: 0A 46-14580 AMOUNT: \$1,392,000.00 ENCUMB. NO.: 3-4273
City of Houston, Texas Ordinance No. 2017-844

AN ORDINANCE APPROVING AND AUTHORIZING A PROFESSIONAL ENGINEERING SERVICES CONTRACT BETWEEN THE CITY OF HOUSTON AND R.G. MILLER ENGINEERS, INC. FOR DR15 SWAT 12A BONITA GARDENS DRAINAGE AND PAVING IMPROVEMENTS; CONTAINING PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. The City Council hereby allocates the sum or sums of money set out in the title of this Ordinance, out of the respective fund or funds set out in such title as follows: the sum of \$1,200,000.00 is allocated for contract services related to the project described in the title and the sum of \$192,000.00 is allocated for CIP Cost Recovery relating to construction of facilities financed by the fund described in such title.

Section 2. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 3. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking referenced in the title of this ordinance, in the event of changed circumstances.

Section 4. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 5. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 25th day of October, 20 17.

APPROVED this _____ day of _____, 20 _____.

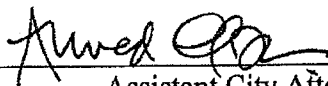
Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is
OCT 31 2017.


City Secretary

Amount of Funding:

\$1,392,000.00 – Fund No. 5000 Federal Government

(Prepared by Legal Dept. )

(ARC:bt 10/10/2017)

Assistant City Attorney

(Requested by Carol E. Haddock, P.E., Acting Director, Public Works and Engineering Department)

(L.D. File No. 0671700034001)

4600014580
2017-0844

**CITY OF HOUSTON
AND
R.G. MILLER ENGINEERS, INC.**

**WORK ORDER
PROFESSIONAL ENGINEERING SERVICES
FOR DESIGN OF**

DR15 SWAT 12A BONITA GARDENS DRAINAGE AND PAVING IMPROVEMENTS

WBS NO. M-420HUD-012A-3

CONTRACT AMENDMENT - WORKSHEET FEE
DR15 SWAT 12A -01 Bonita Gardens Drainage and Paving Improvements
WBS No. M-420HUD-012A-3

Date: 12.05.2018
Revision: 0

Re-allocation from Basic to Additional Services				
DESCRIPTION	Fee Estimate	8% Mark Up	Re-allocation Fee	
Surveying	\$ 96,885		96,885	
Traffic Control Plan	\$ 6,000		6,000	
SW3P	\$ 3,750		3,750	
Drainage Studies	\$ 25,469.10		25,469	
Independent Quantity Take-off (QTO)	\$ 10,121		10,121	
Subsurface Investigation	\$ 58,102	\$ -	58,102	
Reproduction Services	\$ 2,030		2,030	
Subtotal		\$ -	202,357	
Reproduction Services	\$ 2,320		2,320	
Tree Protection & Mitigation Plans (have not authorized yet)	\$ 15,370	\$ 1,230	16,600	
Public Meetings / Presentation	\$ 19,980		19,980	
Subtotal		\$ -	36,580	
Total PH II Re-allocation Fee			238,936	
Additional Appropriation fee - Additional Services				
DESCRIPTION	Fee Estimate	8% Mark Up	Additional Services Fee	
Design Fee during Construction Services	\$ 120,000.00		120,000	

Not authorized yet. Need to transfer from Basic to Addn. for future authorizations