



DeWight Dopslauf, C.P.M., CPPO
Harris County Purchasing Agent

October 04, 2021

Commissioners Court
Harris County, Texas

RE: Job No. 190077

Members of Commissioners Court:

Please approve the attached Order(s) authorizing the County Judge to execute the attached Fourth Amendment to the Agreement(s) for the following:

Description: Community Engagement and Public Outreach Services for the Flood Bond Program for the Harris County Flood Control District

Vendor(s): KGB Texas Communications

Amount: \$1,945,000 previously approved funds
500,000 additional funds
\$2,445,000

Reviewed By: • Harris County Purchasing • Flood Control District

The Fourth Amendment increases funds to continue providing services. Purchase order(s) will be issued upon Commissioners Court approval.

Sincerely,

DeWight Dopslauf
Purchasing Agent

LB
Attachment(s)
cc: Vendor(s)

FOR INCLUSION ON COMMISSIONERS COURT AGENDA OCTOBER 12, 2021



FOURTH AMENDMENT TO AGREEMENT BETWEEN HARRIS COUNTY FLOOD
CONTROL DISTRICT AND KGB TEXAS COMMUNICATIONS

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This Fourth Amendment to the above referenced Agreement is made, entered into, and executed by and between the Harris County Flood Control District, a body corporate and politic under the laws of the State of Texas (the "District") and KGB Texas Communications (the "Consultant"). The District and the Consultant are referred to collectively as "Parties" and individually as "Party".

Recitals

The District and Consultant previously entered into an Agreement for Services ("Master Agreement"), dated May 14, 2019, on Purchase Order No. P321393, to provide community engagement and public outreach services in conjunction with the Harris County Flood Bond Program, provided in support of the District; and

The District and Consultant previously amended the Agreement, on July 9, 2019, to provide additional community engagement and public outreach services in conjunction with the Harris County Flood Bond Program, provided in support of the District ("First Amendment"); and

The District and Consultant previously amended the Agreement, on September 24, 2019, to provide additional community engagement and public outreach services in conjunction with the Harris County Flood Bond Program, provided in support of the District ("Second Amendment"); and

The District and Consultant previously amended the Agreement, on July 28, 2020, to provide additional community engagement and public outreach services in conjunction with the Harris County Flood Bond Program, provided in support of the District ("Third Amendment"); and

The District requires additional community engagement and public outreach services as provided under Section I, Character and Extent of Services, and under Appendix A and Appendix B to the Master Agreement; and

Consultant is willing to provide the necessary additional services for further consideration; and

The District and Consultant now desire amend the Master Agreement for the fourth time to increase the Limit of Appropriation by \$500,000.00, to a maximum sum of \$2,445,000.00.

NOW, THEREFORE, the District and the Consultant, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

Terms

I.

This Fourth Amendment shall be governed by the Master Agreement, First Amendment, Second Amendment and Third Amendment which are incorporated herein by reference as if set forth word for word.

II.

Section VII of the Master Agreement, entitled Limit of Appropriation, is hereby amended to read as follows:

Consultant clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District shall have available the total maximum sum of Two Million Four Hundred Forty-Five Thousand and No/Dollars (\$2,445,000.00) specifically allocated to fully discharge any and all liabilities incurred by the District pursuant to the terms of this Agreement, and that the total maximum compensation the Consultant may become entitled to hereunder and the total maximum sum the District shall become liable to pay to the Consultant hereunder, shall not under any conditions, circumstances, or interpretations hereof exceed the said total maximum sum provided for in this Section and certified as available therefor by the County Auditor as evidenced by the issuance of purchase orders from the Harris County Purchasing Agent.

Consultant understands and agrees that some or all of the payment obligations created under this Agreement are contingent upon the availability of third-party funds, including but not limited to federal funds awarded to the State or County ("Grant Funds") for the term of the Agreement. It is expressly understood and agreed that the County has no County funds available with which to pay its obligations hereunder except funds allocated and received by the County under the Grant awarded to the County. The County shall not be liable under any circumstances or any interpretations hereof for any costs under this Agreement until the Grant Funds are actually received by the County and then only to the extent that such monies are actually received and certified available for this Agreement by the County Auditor as evidenced by the issuance of a purchase order by the Harris County Purchasing Agent. It shall be the obligation of Consultant to assure itself that sufficient funds have been allocated to pay for the Services to be provided. Should Consultant receive any Grant Funds from the County that are determined not subject to payment with Grant Funds, Consultant shall refund to the County any and all such amounts that have been paid by the County.

Consultant understands and agrees that some or all of the payment obligations created by this Agreement are conditioned upon the availability of third-party funds and appropriated for the payment of such obligations under the Grant. In the event these Grant Funds are discontinued or reduced during the Agreement term, the County shall not be liable for payment of any funds above the actual Grant Funds the County receives. It is expressly understood and agreed that the County has available the total maximum sum of funds certified available by the County Auditor through the issuance of the purchase order for the purpose of satisfying the County's obligations under the terms and provisions of this Agreement. In the event the Grant Funds are discontinued or reduced and the Parties are unable to renegotiate the Agreement upon mutually acceptable terms, the Consultant's sole and exclusive remedy shall be to terminate this Agreement. The County's obligation to make any payments under the Agreement using Grant Funds is limited to the amount

of Grant Funds received. Consultant agrees that it will not be entitled to any damages or remedies of any kind including, but not limited to, liquidated or incidental damages, late fees, penalties, and finance charges. Failure to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this Agreement. Consultant shall provide the products, services and deliverables during the applicable grant period only.

Consultant understands and agrees that the Grant Funds awarded to the County constitute some or all of the funding of the Agreement. In order to be eligible for payments under the Grant, Consultant agrees to comply with all of the applicable terms and requirements of the Grant as supplied by the County. Consultant further agrees to reimburse the County, within thirty (30) days after written notice, for any Grant Funds received from the County under the Agreement for which the County is denied reimbursement under the Grant or which are otherwise determined to be ineligible for reimbursement under the Grant. Federal Grant Regulations require that Consultant pay all suppliers and subcontractors performing services under this Agreement within thirty (30) days of receipt of payment from the County.

Consultant understands and agrees that it shall not proceed with any services until it receives written authorization from the County to begin. If at any time during the course of the Agreement, Consultant knows that the funds available will not cover the cost of the services, Consultant shall notify the County immediately.

Subject at all times to the availability of Grant Funds and the County's right to withhold payment of any questionable charges, the County shall pay each undisputed invoice in accordance with Texas state law.

III.

All other terms and provisions of the Master Agreement shall remain in full force and effect as originally written.

IV.

It is expressly understood and agreed that the Master Agreement, First Amendment, Second Amendment, and Third Amendment are incorporated herein by reference. In the event of any conflict between the terms and provisions of this Fourth Amendment, or any portion thereof, and the terms and provisions of any other part or portion of the Master Agreement, the First Amendment, the Second Amendment, the Third Amendment, or this Fourth Amendment shall control.

V.

Execution, Multiple Counterparts: This Fourth Amendment may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Second Amendment.

[EXECUTION PAGE FOLLOWS]

EXECUTED on _____.

APPROVED AS TO FORM:

CHRISTIAN D. MENEFEE
Harris County Attorney

HARRIS COUNTY FLOOD CONTROL
DISTRICT

By Philip Berzins
Philip Berzins
Assistant County Attorney
C.A. File No. 21GEN2693

By _____
Lina Hidalgo
County Judge

ATTEST:

KGB TEXAS COMMUNICATIONS

Katie Harvey

Name

Katie Harvey

Name

Title

CEO

Title

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, 2021, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF THE FOURTH AMENDMENT
TO THE AGREEMENT
BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND
KGB TEXAS COMMUNICATIONS

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED that:

1. The Fourth Amendment to the Agreement is granted and the County Judge of Harris County or her designee is authorized to execute an Amendment to the Agreement with KGB Texas Communications, for community engagement and public outreach services, for a fee increase of \$500,000.00, raising the maximum fee to be paid by the District to \$2,445,000.00, said Amendment being incorporated herein by reference for all purposes as though fully set forth verbatim herein.
2. All Harris County Flood Control District officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.