


CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM 10/27/2021

TO: Cynthia Borrego, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Approval of the Risk First Supplemental Agreement to add funds for FY22 Outside Counsel Legal Services between German * Burnette & Associates, LLC and the City of Albuquerque

Transmitted herewith for City Council consideration and approval is a proposed Agreement for FY22 Outside Counsel Legal Services between German Burnette & Associates, LLC and the City of Albuquerque for continuing representation of the City and/or City officials in the following Risk Management cases:

- Pino et. Al v. COA; D-202-CV-2018-03951; Risk No. 18-11033
- Kolessar, John - Termination Appeal, PB-17-08, LIAB#: PO-18-10658 (AS)
- White, Donna v. City of Albuquerque, D-202-CV-2020-07002. LIAB#: PO-20-21270 (AS)
- Andrade, Adam - Arbitration. Appeal of Termination. FMCS#: 210127-03372. LIAB#: PO-21-21611 (AS)
- Sanchez, Thomas v. City of Albuquerque, et al.; 1:20-cv-01208 JB-JHR; GL-19-12367 (JH)
- LB 21-16/10.1250 AFSCME 3022 v City, Planning; PPC alleging violation of CBA through "work group" shift bids
- LB 21-16/10.1250 APOA v City, APD; PPC alleging changes to SOPs without training or direction

and other Risk or Legal matters as assigned

The Agreement is for One Hundred Seventy Five Thousand Dollars.

Council approval is required pursuant to § 5-5-19, Approval of Contracts, ROA 1994 of the City's Public Purchasing Ordinance. I am forwarding this Agreement for your consideration and action.

SUBJECT: Approval of the Risk First Supplemental Agreement to ad funds for FY22 Outside Counsel Legal Services between German Burnette & Associates, LLC and the City of Albuquerque

Approved:

Approved as to Legal Form:

DS
15



11/5/21

Sarita Nair
Chief Administrative Officer

Date

DocuSigned by:

Esteban A. Aguilar, Jr. 10/28/2021 | 11:29 AM MDT

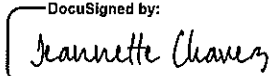
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Esteban A. Aguilar, Jr.
City Attorney

Date

Recommended:

DocuSigned by:



10/27/2021 | 1:57 PM MDT

Jeannette Chavez
Risk Manager

Date

Cover Analysis

1. What is it?

Approval of the First Supplemental Agreement to add funds for FY22 Outside Counsel Legal Services between German * Burnette & Associates, LLC and the City of Albuquerque

2. What will this piece of legislation do?

This piece of legislation provides the approval required by § 5-5-19, Approval of Contracts, ROA 1994 of the City's Public Purchasing Ordinance and allows the continuation of representation in the Risk Management cases assigned to the Legal Department.

3. Why is this project needed?

This is needed to continue with the litigation process for the cases referenced. These cases were referred to outside counsel for the special expertise of the firm and workload management.

4. How much will it cost and what is the funding source?

This Agreement is One Hundred Seventy Five Thousand Dollars. The Risk Management liability program funds this Legal Services Agreement.

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

N/A

FISCAL IMPACT ANALYSIS

TITLE: FY22 First Supplemental Agreement to add funds for Outside Counsel for Legal Services At R: EC O:
 German * Burnnett & Associates LLC, and the City of Albuquerque FUND: 705
 DEPT: Finance and Admin Svc

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years			
	2022	2023	2024	Total
Base Salary/Wages				-
Fringe Benefits at				-
Subtotal Personnel	-	-	-	-
Operating Expenses				-
Property				-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
[x] Estimated revenues not affected				
[] Estimated revenue impact				
Revenue from program				0
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.
 * Range if not easily quantifiable.

Number of Positions created

COMMENTS: This piece of legislation provides the approval required by § 5-5-19, Approval of Contracts, ROA 1994 of the City's Public Purchasing Ordinance and allows the continuation of representation in the Risk Management cases assigned to the Legal Department.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY: Krystle Hernandez

APPROVED:

DocuSigned by: Alma P. Gutierrez 10/27/2021 | 1:51 PM
 DocuSigned by: Krystle Hernandez 10/27/2021 | 1:52 PM
 DocuSigned by: Renee Martinez 10/28/2021 | 8:44 AM
 DocuSigned by: Esteban A. Aguilar 10/28/2021 | 11:29 AM MDT
 FISCAL ANALYST DIRECTOR (date)

REVIEWED BY:

DocuSigned by: Jayne Aranda 10/28/2021 | 10:51 AM
 DocuSigned by: Laura L. Davis 10/28/2021 | 10:58 AM
 DocuSigned by: Christine Burner 10/28/2021 | 11:14 AM MDT
 EXECUTIVE BUDGET ANALYST BUDGET OFFICER (date) CITY ECONOMIST

**FIRST SUPPLEMENTAL AGREEMENT
BETWEEN
GERMAN * BURNETTE & ASSOCIATES, LLC
AND THE CITY OF ALBUQUERQUE**

THIS AGREEMENT is made and entered into as of the last dated City signature below, by and between City of Albuquerque, New Mexico, a municipal corporation ("City"), and German * Burnette & Associates, LLC., A New Mexico professional corporation, whose address is 11728 Linn Avenue NE, Albuquerque, NM 87123("Contractor").

RECITALS

WHEREAS, the City and Contractor entered into an Agreement, dated 7/1/2021 hereinafter referred to as the "Original Agreement", whereby the Contractor agreed to render certain professional services to the City; and

WHEREAS, the City has determined that additional compensation in the amount of One Hundred Seventy-Five Thousand and NO/100 Dollars (\$175,000.00) is needed for continuation of Services; and

WHEREAS, the Contractor is agreeable to the change; and

WHEREAS, there was a delay in extending the term of the Original Agreement, causing a gap between the end of that term and the execution of this First Supplemental Agreement; and

WHEREAS, the City and the Contractor wish to ratify all actions taken by the parties from the date of execution of the Original Agreement through to the execution of this First Supplemental Agreement.

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. Section 3A of the Original Agreement is hereby amended to read as follows:

A. **Compensation.** For performing the Services specified in Section 1 hereof, the City agrees to pay the Contractor up to the amount of Two Hundred Seventy-Five Thousand and NO/100 Dollars (\$275,000.00), which amount includes an additional One Hundred Seventy-Five Thousand and NO/100 Dollars (\$175,000.00) added in a First Supplemental Agreement to the Original Agreement, plus reimbursement of expenses as provided in Section 3.C. below and any applicable gross receipts taxes on such amounts. Such amount shall constitute full and complete compensation for the Contractor's Services under this Agreement.

2. By signing this First Supplemental Agreement, the parties ratify all actions taken from the date of execution of the Original Agreement through to the execution of this First Supplemental Agreement. Further, the parties explicitly agree that all of the terms and conditions

of the Original Agreement, including but not limited to insurance requirements and indemnification, are applicable continuously commencing on the date of execution of the Original Agreement.

3. Except as herein expressly amended, the terms and conditions of the Original Agreement shall remain unchanged and shall continue in full force and effect unless there is a conflict between the terms and conditions of the Original Agreement and this First Supplemental Agreement, in which event, the terms and conditions of this First Supplemental Agreement shall control.

4. This Agreement shall not become binding upon the City until approved by the highest approval authority of the City required under this Agreement.

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