

**FOURTH AMENDMENT TO THE AGREEMENT FOR MANAGEMENT SERVICES
BETWEEN THE GULF CONSORTIUM AND THE BALMORAL GROUP, LLC.**

This Fourth Amendment to the Agreement for Management Services is entered into by and between the **Gulf Consortium**, a legal entity and public body organized and created pursuant to an interlocal agreement among the 23 county governments along Florida's Gulf Coast (the "Consortium"), and **The Balmoral Group, LLC**, whose business address is 165 Lincoln Avenue, Winter Park, Florida 32789 (the "Contractor"), which parties may hereinafter collectively be referred to as the "Parties."

WHEREAS, upon following a competitive procurement process, the Consortium and the Contractor entered into an Agreement for Management Services, dated April 6, 2017, as subsequently amended (the "Agreement"); and

WHEREAS, to maintain continuity of the management services, the Consortium sought authorization from the RESTORE Council (the "Council"), pursuant to 2 CFR 200.320(c)(4), to extend the Agreement directly without soliciting competitive proposals; and

WHEREAS, the Council approved the Consortium's request pursuant to the Council's discretionary authority under the Uniform Guidance provision allowing the Federal awarding agency to expressly authorize non-competitive proposals; and

WHEREAS, the parties wish to amend the Agreement based on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the parties hereby agree to amend the Agreement as follows:

(~~stricken~~ words indicate deletions, underlined words indicate additions)

1. Section 1 of the Agreement is hereby amended as follows:

SERVICES TO BE PROVIDED

The Contractor hereby agrees to provide to the Consortium management services in accordance with:

- A. The Request for Proposal for Management Services for the Gulf Consortium #BC-01-10-17-16 ("RFP"), which was attached to the Agreement as Exhibit A, to the extent that the RFP is not inconsistent with this Amendment; and
- B. The Contractor's submissions to the RFP, which was attached to the Agreement as Exhibit B, to the extent that the submission is not inconsistent with this Amendment or with Exhibit A; and
- ~~C. The Stand-Up State Expenditure Plan (SSEP) Grant Application/Agreement; and~~

~~Ð C.~~ Subsequent Florida State Expenditure Plan (SEP) project implementation grant applications/agreements approved by RESTORE Council.

2. Section 3 of the Agreement is hereby amended as follows:

TERM OF AGREEMENT

~~Following the initial two year term of this Agreement ending on April 30, 2019, this Agreement shall be extended for a one year term commencing May 1, 2019 and shall continue until April 30, 2020. Thereafter, at the sole option of the Consortium, the Agreement may be extended for one additional one year term. Such one year extension will be automatic unless the Consortium provides written notice of non-renewal to the Contractor on or before March 31, 2020.~~

The term of this Agreement shall be for three years commencing on May 1, 2021. Following the three-year term ending on April 30, 2023, this Agreement shall automatically renew for additional one-year terms unless earlier terminated by either party in accordance with Section 15 of this Agreement.

3. Section 4 of the Agreement is hereby amended as follows:

COMPENSATION

(A) The Contractor agrees that for the performance of the Services as outlined in Section 1 above, it shall be compensated by the Gulf Consortium in a manner that maximizes the use of federal funds to pay for such services. ~~If this Agreement is extended beyond the initial two year period,~~ Contractor's compensation for General Administrative Services (i.e., non-grant eligible services) ~~for subsequent years~~ shall be charged at an hourly rate of ONE HUNDRED SEVENTY FIVE DOLLARS (~~\$170~~175) not to exceed ~~SEVEN THOUSAND SIX HUNDRED FORTY TWO DOLLARS (\$7,642) per month~~ ONE HUNDRED THOUSAND DOLLARS (\$100,000) per year. The compensation shall include all General Administrative Services to be provided, including expenses such as copying, long distance phone, travel, and general overhead.

(B) Separate from the amount due under Section 4(A), it is recognized that certain management services may be eligible for grant reimbursement ("Grant Eligible Services"). In the event Federal funds or other funds become available to pay for such Grant Eligible Services, Contractor shall be paid a fee of ONE HUNDRED SEVENTY FIVE DOLLARS (~~\$170~~175) per hour for providing such services. However, the Consortium shall not be obligated to pay Contractor in excess of ~~TWO HUNDRED NINETY NINE THOUSAND EIGHT HUNDRED AND EIGHTY DOLLARS (\$299,880)~~ THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) per fiscal year from grant funds, with the exception of any amounts that may be paid to Contractor from grant funds pursuant to previously approved ~~SSEP Adaptive Planning and Compliance Project costs addressed in the SEP, which shall not exceed SIXTY THOUSAND DOLLARS (\$60,000) per fiscal year~~ paragraph (C) of this Section. All services provided that for any

reason do not qualify for grant reimbursement under paragraph (B) or (C) of this Section shall be considered General Administrative services payable as set forth in Section (4)(A).

1. Grant-eligible costs incurred to prepare, submit, manage and close out grants will be included as contractual services within grant application submittals to RESTORE Council. For each grant submittal, Consortium approval of pre-award costs will be obtained prior to incurring expense.
2. Annually on the anniversary of execution, the Parties shall review the volume of grant applications and awards processed by the Contractor under this Agreement. Following each such review, if the Parties agree, (1) the maximum caps may be increased as deemed appropriate and (2) the hourly rate may be increased as deemed appropriate. The Consortium hereby delegates authority to the Executive Committee to review and approve any change to the maximum caps that are within 20% of the prior year's cap.

~~(C) The Consortium previously approved SSEP costs in the amount of TWO HUNDRED TWENTY ONE THOUSAND AND THIRTY EIGHT DOLLARS (\$221,038) for Contractor and the Consortium's General Counsel to begin work on preparing the SSEP Grant Application and implementing SSEP activities. This amount was included in the Consortium's FY 18-19 operating budget and the SSEP itself, and some or all of such SSEP costs may constitute Grant Eligible Services, as defined above. As individual line items within the approved operating budget vary from the original estimates provided within the SSEP, notification has been provided to the RESTORE Council. However, remaining SSEP activity shall be completed within the approved budget and the total amount of approved SSEP costs remains unchanged. For Grant Eligible Services provided by Contractor under this paragraph, the Consortium shall not be obligated to pay Contractor in excess of ONE HUNDRED SIXTY NINE THOUSAND AND TWO HUNDRED TWENTY SIX DOLLARS (\$169,226) from grant funds. Contractor shall be paid a fee of ONE HUNDRED SEVENTY DOLLARS (\$170) per hour for services provided in accordance with this paragraph.~~

4. Section 5 of the Agreement is hereby deleted in its entirety.

~~In accordance with part VII of Chapter 218, Florida Statutes, the Consortium shall make such payments within forty five (45) days of submission and approval of invoice for services.~~

5. Section 6 of the Agreement is hereby amended as follows:

6. STATUTORY PROMPT PAYMENT INFORMATION REQUIREMENTS NOTICES AND INVOICES

- A. Notices to the Consortium are to be submitted to:

Name: Lynn M. Hoshihara, Esq.
Street Address: 1500 Mahan Drive, Suite 200
City, State, Zip Code: Tallahassee, FL 32308
Telephone: 850-224-4070
E-mail: lhoshihara@ngnlaw.com

B. Notices to the Contractor are to be submitted to:

Name: Valerie Seidel
Street Address: 165 Lincoln Avenue
City, State, Zip Code: Winter Park, FL 32789
Telephone: 407-629-2185
E-mail: vseidel@balmoralgroup.us

C. Invoice: The Contractor shall submit requests for payment to the Consortium in the following form:

A numbered invoice document with date of invoice; reference of the Consortium contract number; itemized listing of all goods and services being billed with unit prices and extended pricing; Contractor's name, address, billing contact person information, and Federal tax identification number. The invoice must be properly addressed and delivered to the contact identified above.

D. Payment Dispute Resolution: Resolution 2015-01 of the Consortium establishes the Gulf Consortium Purchasing Policy for Management Services. The Resolution ~~and part VII of chapter 218, Florida Statutes,~~ establishes the policy and procedures for payment disputes that apply to this Agreement.

6. Section 13 of the Agreement is hereby amended as follows:

The Contractor agrees:

- a. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the Consortium under this Agreement.
- b. To the extent the Contractor is performing services on behalf of the Consortium, the Contractor must:
 - i. Keep and maintain public records that ordinarily and necessarily would be required by the Consortium in order to perform the service;
 - ii. Provide the public with access to public records on the same terms and conditions that the Consortium would provide the records and Upon request from the Consortium, provide the Consortium with a copy of the requested records or allow the records to be inspected or copied within a reasonable

- time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Consortium;
 - iv. ~~Meet all requirements for retaining public records and transfer~~ Upon completion of the contract, transfer, at no cost, to the Consortium all public records in possession of the Contractor or keep and maintain public records required by the Consortium. upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor transfers all public records to the Consortium upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the Consortium in a format that is compatible with the Consortium's information technology systems.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT GENERAL COUNSEL AT 1500 MAHAN DRIVE, SUITE 200, TALLAHASSEE, FL 32308, PHONE: (850) 224-4070 lhoshihara@ngnlaw.com.

- ~~e. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of five (5) years after termination of the Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.~~
- ~~d. Upon completion or termination of the Agreement and at the request of the Consortium, the Contractor shall cooperate with the Consortium to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in this Section.~~
- e. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the Consortium.

- f. Persons duly authorized by the Consortium and Federal auditors, pursuant to 45 CFR, Part 92.36(I)(10), shall have full access to and the right to examine any of provider's Agreement and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
 - g. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.
7. Section 15 of the Agreement is hereby amended as follows:

~~The Consortium may terminate this Agreement without cause, by giving the Contractor 30 days written notice of termination.~~ Either party may terminate this Agreement ~~for~~ without cause by giving the other party hereto ~~30~~ 90 days written notice of termination. After the 90-day notice period, the parties shall enter into a month-to-month agreement until the conclusion of the transition period to the new General Manager. The Consortium shall not be required to give Contractor such ~~30~~ 90 day written notice if, in the opinion of the Consortium, the Contractor is unable to perform its obligations hereunder, or if in the Consortium's opinion, the services being provided are not satisfactory. In such case, the Consortium may immediately terminate the Agreement by mailing a notice of termination to the Contractor. The Consortium may retain/withhold payment for nonperformance if deemed appropriate to do so by the Consortium.

8. All other provisions of the Agreement shall remain in full force and effect.

WHERETO, the parties have set their hands and seals effective the date whereon the last party executes this Amendment.

GULF CONSORTIUM


By: 
 , Chairman

Date: June 30, 2021

By: 
 , Secretary

Date: 6/30/2021

THE BALMORAL GROUP, LLC.

By: 
 Valerie Seidel, President

Date: 6/23/2021