



MIAMI-DADE EXPRESSWAY AUTHORITY

3790 NW 21 St. // Miami, FL 33142

www.mdxway.com

SUPPLEMENTAL AGREEMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT

MDX PROCUREMENT/CONTRACT NO.: RFQ-17-04(C)
MDX WORK PROGRAM NOS.: N/A
MDX PROJECT/SERVICE TITLE: LEGAL SERVICES SUPPORT - BOND/DISCLOSURE & FINANCIAL

THIS SUPPLEMENTAL AGREEMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT (as "SA #2") is made and entered into this 8th day of February 2023 (the "Effective Date"), by and between the *Miami-Dade County Expressway Authority d/b/a as Miami-Dade Expressway Authority* (the "Authority" or "MDX"), a body politic and corporate, a public instrumentality created by the Board of County Commissioners of Miami Dade County as amended, acting by and through its Governing Board, and *Squire Patton Boggs (US) LLP*, a limited liability partnership duly organized and existing under the laws of *Ohio*, located at *200 South Biscayne Boulevard, Suite 3400, Miami, Florida 33131*, and duly authorized to transact business in the State of Florida, *F.E.I.N. 34-0648199*, and *D. Seaton and Associates, P.A.*, a corporation duly organized and existing under the laws of *Florida*, located at *201 South Biscayne Boulevard, 28th Floor, Miami, Florida 33131*, and duly authorized to transact business in the State of Florida, *F.E.I.N. 65-0960293* (jointly as the "Consultant") (collectively, referred to herein as the "Parties" to this SA #2).

WITNESSETH

WHEREAS, MDX competitively procured for all Services necessary to provide *Legal Services Support - Bond/Disclosure & Financial* (the "Services"), and subsequently on *April 1, 2017* entered into a Professional Services Agreement for *MDX Procurement/Contract No. RFQ-17-04(C)* with the Consultant, to perform the Services (the "Agreement" or "Contract"); and

WHEREAS, the term of the Agreement is for three (3) years with an option to extend for up to two (2) years and the Parties wish to exercise the extension period allowed for in the Agreement; and

WHEREAS, on *June 4, 2021*, the Parties entered into *Supplemental Agreement No. 1* to exercise the extension period allowed for in the Agreement to extend the Agreement until *May 28, 2023*; and



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WHEREAS, although the contractually available extension(s) have been exhausted pursuant to the original Agreement, MDX will be re-procuring legal services in the future as stated below in Clause #2. In order to ensure no disruption in providing the Services the Parties wish to further extend the Agreement.; and

WHEREAS, the Parties are in agreement to revise the Method of Compensation (Exhibit B to the Contract) to account for an increase to the negotiated Contract Hourly Rates due to the Consumer Price Index (CPI).

NOW THEREFORE, in accordance with §8.3 *Approval Authority of Agreements and Supplemental Agreements* of the *MDX Procurement Policy* incorporated herein by reference and made a part hereof, and in consideration of the mutual promises and covenants contained herein, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The foregoing recitations are true and correct and are incorporated herein by reference.
2. The Agreement is hereby extended for one (1) year until **May 28, 2024**, or through **re-procurement of a new contract**.
3. As a result of this SA #2, **Exhibit B, Method of Compensation** to the Contract is hereby deleted in its entirety and replaced with **Exhibit B, Method of Compensation – Revised 1-23-2023** attached hereto and incorporated herein.
4. The defined terms used herein, unless otherwise defined in this SA #2, shall have the meanings ascribed to them in the Contract Documents.
5. Except as expressly provided herein, all of the terms, conditions, covenants, agreements and understandings contained in the Contract Documents shall remain unchanged and in full force and effect, and the same are hereby expressly ratified and confirmed by the Parties.
6. This SA #2 shall not alter or change in any manner the force and effect of the Contract except insofar as the same is altered and amended by this SA #2. Wherever the terms of this SA #2 and the terms of the Contract Documents are in conflict, the terms of this SA #2 shall govern and control.

[SIGNATURES ON NEXT PAGE]

Initials (Consultant)



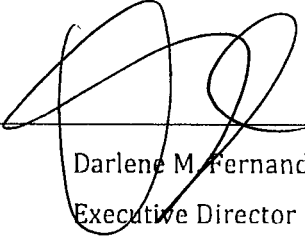
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IN WITNESS WHEREOF, the Parties have caused this SA #2 to be executed by their respective and duly authorized officers as of the Effective Date set forth herein.

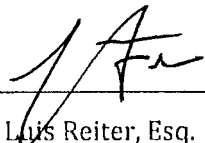
MIAMI-DADE EXPRESSWAY AUTHORITY

By: _____


Darlene M. Fernandez, P.E.
Executive Director

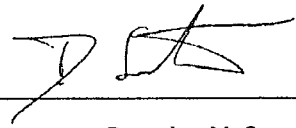
SQUIRE PATTON BOGGS (US) LLP

By: _____


Luis Reiter, Esq.
Senior Partner

D. SEATON AND ASSOCIATES, P.A.

By: _____


Douglas M. Seaton
Managing Partner

Attachments:

Exhibit B, Method of Compensation – Revised 1-23-2023



Initials (Consultant)



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EXHIBIT B
METHOD OF COMPENSATION – REVISED 1-23-2023



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1.0 PURPOSE:

The Method of Compensation of the Agreement outlines the manner in which the Consultant will be compensated for providing the Services described in the Scope of Services included as Exhibit A of the Agreement (the "Services"). In case of conflicts between the Method of Compensation and the Agreement, the language of the Agreement shall govern.

2.0 COMPENSATION:

The Authority agrees to pay the Consultant for the Services, as authorized via a written Task Authorization issued by MDX, and compensation is to be made in any of the manner described herein as may be outlined in the Task Authorization.

The Contract Amount shall not exceed \$2,000,000 (excluding litigation services) in the Initial Term of the Agreement.

2.1 Lump Sum

MDX and the Consultant may negotiate the fees of a Task Authorization and arrive at a Lump Sum amount to be compensated to the Consultant. Lump Sum amounts are the total amount MDX will compensate the Consultant to accomplish the specific task. The Consultant shall not be entitled to any other compensation for such task, regardless of resulting time and efforts to accomplish the task.

2.2 Limiting Amount

MDX and the Consultant may negotiate a Task Authorization with a dollar Limiting Amount and compensate the Consultant against the Limiting Amount using the Contract Hourly Rate(s) based on time expended in accomplishing the task.

2.3 Direct and/or Itemized Expenses

The Consultant may be compensated for authorized direct and/or itemized expenses relating to the Services approved on the Task Authorization at the rate identified herein. Expenses for which rates have not been identified require prior written approval from MDX.

Whenever reimbursement is sought for travel expenses on behalf of MDX, a written pre-approval by the MDX contract manager or designee is required. When requesting reimbursement, the MDX pre-approval shall accompany invoices which shall be submitted and paid in accordance with the MDX Business Travel Policy, as may be amended from time to time. MDX will not pay Consultant for travel time.



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In any conflict between the MDX Business Travel Policy and the Agreement, the language of the Agreement shall govern.

2.4 **Contract Hourly Rates**

MDX will compensate the Consultant the hourly rates for each approved personnel as outlined herein (Contract Hourly Rates).

The Contract Hourly Rates are loaded rates and shall not be further burdened.

The Contract Hourly Rates are **NOT** subject to escalation throughout the Initial Term of the Agreement.

SQUIRE PATTON BOGGS (US) LLP		
Personnel	Classification	Contract Hourly Rate
Luis Reiter	Senior Partner	\$500.00
Alexandra M. MacLennan	Partner	\$500.00
Robert J. Eidnier	Partner	\$500.00
Michael A. Cullers	Partner	\$500.00
Robert G. Lendino	Counsel	\$500.00
Pedro H. Hernandez	Partner	\$500.00
Gilberto Delgado, Jr.	Associate	\$400.00
Taylor Klavan	Senior Associate	\$400.00
Andrew R. Kruppa	Partner	\$500.00
Phillip R. Zender	Partner	\$500.00
Jill S. Kirila	Partner	\$500.00
D. SEATON AND ASSOCIATES, P.A.		
Douglas M. Seaton	Partner	\$500.00
Michael B. McKenzie	Counsel	\$500.00
Jeffrey M. Perlman	Partner	\$500.00

For personnel added to the Agreement after execution, in accordance with the procedures outlined in the Agreement, the following compensation methodology will be utilized to establish a Contract Hourly Rate:

Partner/Principal/Counsel Regular hourly rate capped at \$500.00

Associate Regular hourly rate capped at \$400.00

2.5 **Bond Counsel Services:**

First	\$25,000,000.00	\$1.75	\$43,750.00
Second	\$25,000,000.00	\$1.50	\$37,500.00
Third	\$25,000,000.00	\$1.25	\$31,250.00
Fourth	\$25,000,000.00	\$1.00	\$25,000.00
Fifth	\$25,000,000.00	\$0.75	\$18,750.00
Sixth	\$25,000,000.00	\$0.50	\$12,500.00
Thereafter		\$0.25	

MDX reserves the right to negotiate downward based on the complexity of the bond transaction.

2.6 **Disclosure Counsel Services:**

Fees to be compensated to the Consultant for Disclosure Counsel Services, as may be applicable, will be the lump sum amount of 50% of the fees paid for Bond Counsel Services for the specific Bond Transaction.

2.7 **Expenses:**

Copies	\$0.25
Long Distance Calls	At cost
Legal Research	At Cost
Mail Delivery Services	At Cost

3.0 **FREQUENCY OF PAYMENT AND INVOICE SUBMITTAL:**

3.1 **Frequency of Payment**

Frequency of payment to the Consultant will be pursuant to each Task Authorization in the manner described below, as may be applicable:

A. **Lump Sum:**

- Monthly payments of a pro-rated amount based on the timeframe allowed for the completion of the specific task pursuant to the Task Authorization.



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- One-time payment once the Services have been received and approved by MDX to its satisfaction in accordance with the requirements of the Contract and/or Task Authorization.

B. **Limiting Amount:**

- Monthly payments based on time expended for each approved personnel pursuant to the Task Authorization.

3.2 **Invoice Submittal**

- A. The Consultant shall submit invoices requesting payment pursuant to the applicable provision in Section 3.1 herein.
- B. The Consultant shall submit properly documented invoices that, at a minimum, include a progress report as justification for billable time.
- C. When submitting any invoice, the Consultant shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the invoice is submitted in good faith, that the supportive data are accurate and complete to the Consultant's best knowledge and belief, and that the amount of the invoice accurately reflects what the Consultant in good faith believes to be MDX's liability.

Such certification must be made by an officer or director of the Consultant with the authority to bind the Consultant. The Consultant also agrees to indemnify MDX for any costs and expenses, including but not limited to audit costs, attorneys' fees and expert witness fees that MDX incurs due to any fraudulent statements made by Consultant in said invoices.

- D. Consultant shall not bill MDX for time expended in the preparation of invoices.
- E. Invoice submittals shall include the following forms. If only one invoice is required for a particular Task Authorization, all forms below must be submitted with the invoice.
- MDX Invoice Tracking Form
 - Certificate of Partial Payment/Final Payment, Waiver and Release From Contractor/Consultant*
 - Certification of Disbursement to Subcontractors/Subconsultants/Suppliers**
 - Contractor's/Consultant's Final Release and Affidavit* (*this form is only applicable to the final payment under a Task Authorization or the Agreement*)



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*For multiple invoice submittals under one Task Authorization, these forms are not required for the first invoice.

**Only applicable when invoicing for subcontracted services.

Failure to submit the above forms properly executed may be cause for rejection of the invoice.

All forms may be downloaded from the MDX website at www.mdxway.com/doing_business/procurement.

- F. Invoices shall be paid in accordance with Florida Statutes and MDX's Invoice Dispute Resolution Procedure, found in the MDX Procurement Policy.
- G. The Consultant shall not markup the Subconsultant's invoice for any additional compensation to the Consultant and shall promptly pay all Subconsultants their proportionate share of payments received from MDX.
- H. The Consultant shall maintain an accounting system that can properly track and report all activities associated with the Agreement.

4.0 OTHER TERMS & CONDITIONS:

The Consultant guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against him or any Subconsultant in connection with the Agreement.

The Contract or Task Authorization will be considered completed when all Services and any corrections to the Services, if required, has been accepted by MDX.

The Consultant agrees to be bound by MDX's Invoice Dispute Resolution Procedure, as amended.

Consultant's attendance to meetings will only be compensated if such attendance is required as part of an issued Task Authorization or MDX has specifically directed the Consultant to attend. In addition, multiple staffing of Consultant at meetings will not be compensated unless the Consultant has received prior written authorization from the MDX Executive Director or his/her designee.

5.0 CONTRACT AUDIT:

If requested, the Consultant shall permit MDX to perform or have performed an audit of the records of the Consultant and any or all Subconsultants to support the compensation paid the Consultant.



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The audit will be performed as soon as practical after completion and acceptance of the Services. In the event funds paid to the Consultant under the Contract are subsequently properly disallowed by MDX because of accounting errors or charges not in conformity with the Contract, the Consultant agrees that such disallowed funds are due to MDX upon demand. Further, MDX shall have the right to deduct, from any amount due the Consultant under the Agreement or any other contract, any amount due MDX. Final payment to the Consultant shall be adjusted for audit results.