

MIDVALE CITY, UTAH

RESOLUTION NO. 2023-R-13

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED AND RESTATED AGREEMENT WITH BOWEN, COLLINS, AND ASSOCIATES FOR PROFESSIONAL SERVICES

WHEREAS, Midvale City and Bowen, Collins and Associates entered into an Agreement for Professional Services on April 18, 2005 (“Original Agreement”); and

WHEREAS, Bowen, Collins and Associates has provided numerous engineering services for Midvale during the term of the Original Agreement on a task order basis; and

WHEREAS, in order to continue the contractual relationship, the Original Agreement is now being replaced with an Amended and Restated Agreement for Professional Services (“Amended Agreement”); and

WHEREAS, the Amended Agreement continues the existing relationship, updates the insurance requirements, rebalances liability and indemnification obligations, and provides a new dispute resolution process; and

WHEREAS, the City Council finds it in the best interest of the City to enter into an Amended Agreement with Bowen, Collins, and Associates for Professional Services,

NOW, THEREFORE, be it resolved by the Midvale City Council that the Mayor is authorized to execute the Amended and Restated Agreement with Bowen, Collins and Associates for Professional Services attached hereto.

PASSED AND APPROVED this 21st day of March 2023.

By: *Marcus Stevenson*
Marcus Stevenson, Mayor

[SEAL]



VOTING:

Quinn Sperry	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Paul Glover	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Heidi Robinson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Bryant Brown	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Dustin Gettel	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

ATTEST:

Rori L. Andreason
Rori L. Andreason, MMC
City Recorder



AMENDED AND RESTATED AGREEMENT FOR PROFESSIONAL SERVICES

This Amended and Restated Agreement for Professional Services is executed on _____, 2023, by Midvale City, a Utah municipal corporation and a political subdivision of Utah, and Bowen, Collins and Associates, a Utah corporation (“BC&A”).

Background

Midvale City and Bowen, Collins and Associates entered into an Agreement for Professional Services on April 18, 2005 (“Original Agreement”).

BC&A has provided numerous engineering services for Midvale during the term of the Original Agreement on a task order basis.

As nearly 18 years have passed since the Original Agreement was executed, the Parties now wish to maintain their contractual relationship by replacing the Original Agreement with this Amended and Restated Agreement for Professional Services (“Amended Agreement”).

The Amended Agreement continues the existing relationship between the Parties and updates the insurance requirements, rebalances liability and indemnification obligations, and provides a new dispute resolution process.

Midvale City, in accordance with Midvale Municipal Code 3.02.060(E)(7), finds that it is in its best interest to enter the Amended Agreement with Bowen, Collins and Associates under a professional service exemption because of BC&A’s demonstrated engineering expertise and familiarity with the City’s systems.

Bowen, Collins and Associates finds that it is in its best interest to enter the Amended Agreement with the City so that it may benefit from an updated and continued contractual relationship with the City.

Therefore, in exchange for the mutual promises found in this Amended Agreement, the Parties agree as follows:

Agreement

- 1. Amended and Restated Agreement for Professional Services.** Upon execution of this Amended and Restated Agreement for Professional Services, the Amended and Restated Agreement for Professional Services will supersede and replace the Agreement for Professional Services between the Parties and dated April 18, 2005. The Amended Agreement will represent the entire agreement between the Parties.
- 2. Engineering Services.** BC&A will provide engineering services to Midvale City on as-needed basis (“Services”). Midvale City will issue individual Task Orders for Services under Section 3 of this Amended Agreement.

3. **Task Orders.** For each project, the City will request BC&A to draft a Task Order for Services. The Task Order will include the scope of Services, schedule, and compensation for the project. The City may accept the Task Order by authorizing the BC&A to proceed with work under the Task Order. The Task Order will be subject to this Amended Agreement.
4. **Compensation.** Compensation for the completion of Services will be set by individual Task Orders. Unless otherwise noted in the Task Order, the compensation amount in a Task Order may not be exceeded by BC&A without Midvale's prior written permission.
5. **Invoices.** BC&A must submit invoices for payment to Midvale. Invoices must include an invoice number, the date the Service was provided, the Service performed, the specific rate, a reference to the related Task Order, and the total extended dollar amount. Midvale will issue payments to BC&A for any uncontested charges within 30 days after receipt of invoices. The Parties will resolve any disputed charges in accordance with Section 29 of this Amended Agreement.
6. **Schedule.**
 - A. **Milestones/Deadlines.** BC&A agrees to meet all milestones and deadlines for Services established in an accepted Task Order.
 - B. **Time.** Time is of the essence.
 - C. **Acts of God.** Neither Party to this Amended Agreement will be held responsible for delay or default caused by fire, riot, natural disaster, acts of God, pandemics, war, or a similar event which is beyond that Party's reasonable control. Either Party may terminate this Amended Agreement by written notice to the other Party after determining such delay will prevent successful performance of this Amended Agreement.
 - D. **Cooperation.** Both Parties recognize that Midvale's cooperation may be necessary for BC&A to successfully complete Services in accordance with the schedule provided in the Task Order. In the event the City unreasonably delays BC&A's performance, the affected schedule will be extended by the number of days BC&A's performance was unreasonably delayed by the City.
7. **Standard of Care.** BC&A represents that the Services provided by BC&A under this Amended Agreement are provided in a manner consistent with the level of care and skill ordinarily exercised by or under the direction of members of BC&A's profession currently practicing in the Parties' locality and under similar conditions.
8. **Documents.**