



## Legislation Text

File #: 21-1305, Version: 1

**Dept/ Agency:** Engineering

**Action:** (X) Ratifying (X) Authorizing (X) Amending

**Type of Service:** Professional Services Contract

**Purpose:** To execute Change Order/Amendment #1 of the Professional Services Contract to provide Small Cell Wireless Facility Permit Review Services.

**Entity Name:** Johnson, Mirmiran and Thompson, Inc. (JMT)

**Entity Address:** 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648

**Contract Amount:** To increase the contract amount by \$225,000.00 for an amended amount not to exceed \$250,000.00

**Funding Source:** 2021 Budget/Trust Fund - NW026, 38780, B2021

**Contract Period:** October 28, 2020 through October 27, 2021

**Contract Basis:** ( ) Bid ( ) State Vendor (X) Prof. Ser. ( ) EUS

( ) Fair & Open (X) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a

**Addition Information:**

Original Resolution 7R3-a(AS), adopted on October 21, 2020, authorized a contract in an amount not to exceed \$25,000.00 for a period of one (1) year upon an issuance of a Notice to Proceed.

This Amendment #1 will increase the contract amount by \$225,000.00 for total contract amount not to exceed \$250,000.00 for a period of one (1) year upon an issuance of a Notice to Proceed.

The funding for this contract shall come from the proceeds that the City of Newark receives from Applications from and License Agreements with telecommunication companies requesting the installation of Small Cell Wired and Wireless facility deployments within the City's right of way.

**WHEREAS**, Engineering services are professional services and are exempt from the requirements for public bidding pursuant to the Local Public Contracts Law, more specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

**WHEREAS**, the Municipal Council, by Resolution 7R3-a(AS), adopted on October 21, 2020, awarded a contract to, Johnson, Mirmiran and Thompson, Inc. (JMT), of 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648, to review applications received by the City of Newark (the "City") from telecommunication companies requesting the installation of Small Cell Wired and Wireless facility deployments within the City's right of way (the "Professional Engineering Services") in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), for the contract period of one (1) year upon the issuance of a Notice to Proceed, which was issued on October 28, 2020; and

**WHEREAS**, JMT, currently has outstanding engineering bills for the Professional Engineering Services for the term of the contract, which exceeds the original contract amount; and

**WHEREAS**, the outstanding engineering bills for the contract period of October 28, 2020 through October 27, 2021 require an increase in the total contract amount; and

**WHEREAS**, an additional Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00), is necessary to pay JMT for the Professional Engineering Services it provided during the contract period; and

**WHEREAS**, the requested increase in the total contract amount is deemed reasonable and necessary to pay the outstanding engineering bills through October 27, 2021; and

**WHEREAS**, the increase of an additional Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) brings the total contract to an amount not to exceed Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00), for services provided from October 28, 2020 through October 27, 2021; and

**WHEREAS**, the Director of Engineering confirms that JMT has performed and rendered services for the period of the outstanding invoices; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that Notice of the Award of contracts for "Professional Services" without competitive bidding must be published in a local newspaper; and

**WHEREAS**, this contract amendment is being awarded as a Non-Fair and Open contract pursuant to N.J.S.A. 19:44A-20.5; and

**WHEREAS**, pursuant to N.J.S.A. 19:44A-1 et seq., JMT has completed and submitted a Business Entity Disclosure Certificate, which shall be placed on file with the resolution in the Office of the City Clerk, certifying that JMT has not made any reportable contributions to a political or a candidate committee in the City of Newark in the previous one (1) year through the term of the expiration date of the contract; and

**WHEREAS**, the Municipal Council adopted New Jersey Municipal Code § 2:4-22C.1, which adopted the State of New Jersey's Pay-to-Play statutory requirements pursuant to N.J.S.A. 19:44A-20.5, as may be amended and supplemented, governing eligibility for municipal contracts.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor of the City of Newark and/or his designee, the Director of the Department of Engineering, are hereby authorized and directed on behalf of the City of Newark to execute a First Amendment to the Agreement to provide Professional Engineering Services with Johnson, Mirmiran and Thompson, Inc. (JMT), of 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648, for the purposes of paying the outstanding bills for the work JMT performed under the contract for an additional Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) for a total amended contract amount not to exceed Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00), for the period of October 28, 2020 through October 27, 2021.
2. The Municipal Council hereby ratifies this First Amendment to the Agreement to provide

Engineering Services from October 28, 2020 to the date of the adoption of this resolution.

3. All other terms and conditions of the contract shall remain the same.
4. This First Amendment to the Agreement to provide Professional Engineering Services is made in accordance with the professional services exception to public bidding in the Local Public Contracts Law, (N.J.S.A. 40A:11-5(1)(a)(i)), and pursuant to the Non-Fair and Open Procedures of the State Pay-to-Play Law (N.J.S.A. 19:44A-20.5) and is in compliance with the City of Newark Municipal Code § 2:4-22C.1, which adopted the State of New Jersey's Pay-to-Play statutory requirements pursuant to N.J.S.A. 19:44A-20.5, as may be amended and supplemented, governing eligibility for municipal contracts.
5. Pursuant to the Federal Communications Commissions (FCC) regulations and under the Law, the City is entitled to recover reasonable costs incurred by the City to review applications received from telecommunication carriers for the installation and deployment of wireless and any associated wireline facilities, including in particular small wireless facilities and facilities associated with 5G deployments within the City's public rights of way.
6. Pursuant to City of Newark Municipal Code § 29:29-1, et seq., the funding for this First Amendment shall come from the proceeds that the City receives from the applications received by the City from telecommunication companies and license agreements entered into with telecommunication companies for the installation and deployment of wireless and any associated wireline facilities, including in particular small wireless facilities and facilities associated with 5G deployments within the City's public rights of way.
7. Attached hereto is a Certification of Funds from the Director of the Department of Finance which states: (1) that there are available sufficient legally appropriated funds in the amount of Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00); and (2) that the line appropriation of the official budget which shall be charged is as follows:

Business Unit	Dept.	Div./Proj.	Account#	Budget Yr.	Amount
NW026	-	-	38780	B2021	\$225,000.00

8. A copy of the Political Contribution Disclosure Form and the Determination of Value letter are attached and shall be placed on file with the resolution in the Office of the City Clerk.
9. Pursuant to N.J.S.A. 19:44A-1 et seq., JMT, has completed and submitted a Business Entity Disclosure Certificate, which shall be placed on file with the resolution in the Office of the City Clerk, certifying that JMT has not made any reportable contributions to a political or a candidate committee in the City of Newark in the previous one (1) year through the term of the expiration date of the contract.
10. A copy of the executed First Amendment to the Agreement to provide Professional Engineering Services herein authorized shall be filed in the Office of the City Clerk by the Corporation Counsel and shall be made available for public inspection.
11. A notice of this action shall be published in the newspaper authorized by law to publish a

legal advertisement and as required by law within ten (10) days of the adoption of this resolution.

### **STATEMENT**

This Resolution ratifies and authorizes the Mayor of the City of Newark and/or his designee, the Director of the Department of Engineering, to enter into and execute a First Amendment to the Agreement to provide Professional Engineering Services with Johnson, Mirmiran and Thompson, Inc. (JMT), of 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648, for the purposes of paying the outstanding bills for the work JMT performed under the contract for an additional \$225,000.00, for a total amended contract amount not to exceed \$250,000.00, for the period of October 28, 2020 through October 27, 2021. No City funding is required for this amendment.