

CITY OF PALMER ACTION MEMORANDUM NO. 09-048

SUBJECT: Authorize the City Manager to a Enter into and Execute a Contract with Nuka Research and Planning Group, LLC, to Update the City of Palmer Emergency Operations Plan

AGENDA OF: September 22, 2009 (originally on the September 8 agenda)

Council action:	Authorized
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Approved for presentation by B. B. Allen, City Manager B. B. Allen

Route To:	Department/Individual:	Initials:	Remarks:
X	Originator (Public Safety Director)	8/18/09 <i>JO</i>	
X	City Clerk	9/2/09 <i>JB</i>	
X	City Attorney	9/2/09 <i>↔</i>	
X	Director of Administration	<i>HW</i>	
	Director of Community Development		
	Director of Community Services		
	Director of Public Safety		
	Director of Public Works		

Attachment(s): Contract with Nuka Research and Planning Group, LLC
Action Memorandum 08-066

Certification of Funds:

	No fiscal impact.	
X	Funds are budgeted from this account number: 08-01-10-7132	\$22,000
	Funds are not budgeted. Budget modification is required. Affected account number:	

Director of Administration Signature: *HW*

Summary Statement: On October 28, 2008, the City Council approved Action Memorandum 08-066, accepting and appropriating grant funds in the amount of \$22,000 from the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security and Emergency Management, to re-write the City of Palmer Emergency Operations Plan (EOP). A Request For Proposal (RFP) was issued in July 2009, thereby allowing the new Palmer Fire Chief to fully participate in the planning process.

The City of Palmer received two proposals for this work. Powtec, LLC, submitted a proposal with a cost of \$16,730. Nuka Research and Planning Group, LLC, proposed to complete the re-write

for \$17,320. The criteria for proposal evaluation were:

- prior verifiable experience in developing community emergency operations plans (30 points)
- ability to collaborate with multiple City of Palmer Departments and with private sector groups to provide a comprehensive plan overview (including the possibility of distance coordination and facilitation of meetings) (20 points)
- representative examples of community emergency response plans (30 points);
- a minimum of three references pertaining to the Contractor's ability to complete the EOP (20 points)

The proposals were evaluated by the City of Palmer Fire Chief, Police Chief, Public Safety Director, a police sergeant, and the City Clerk. The team uniformly scored the proposal from Nuka Research and Planning Group, LLC above the proposal submitted by Powtec, LLC. Nuka Research and Planning Group, LLC, scored 82.5 points out of a possible 100 points; the Powtec, LLC proposal scored 56 points out of a possible 100.

The EOP project will be fully funded by the Homeland Security Grant funds. Residual grant funds will be used to print copies of the new EOP for distribution to City Departments, the Matanuska-Susitna Borough, the State of Alaska Division of Homeland Security and Emergency Management, and other stakeholders in the City of Palmer and the surrounding area.

Administration recommendation: Approve action memorandum 09-048.

CONTRACT
Between the
CITIES OF PALMER and NUKA RESEARCH AND PLANNING LLC
To
REVISE AND UPDATE THE CITY OF PALMER
EMERGENCY OPERATIONS PLAN

A. DEFINITIONS/PURPOSE

1. Definitions

In this Agreement:

- a. "Palmer" means the City of Palmer;
- b. "Nuka" means Nuka Research and Planning, LLC
- c. "Parties" means Palmer, and Nuka;
- d. "EOP" means the City of Palmer Emergency Operations Plan

2. Purpose

This Agreement is entered into between the parties to set out the terms and conditions under which Nuka will revise and update the Emergency Operations Plan (EOP) for Palmer.

B. DELIVERABLES PROVIDED BY NUKA: EOP REQUIREMENTS

1. The EOP Legal Requirements and Standards

- a. At a minimum, the EOP must meet the requirements and standards set forth in the City of Palmer Municipal Code 2.32.010 through 2.32.130; the Matanuska-Susitna Borough Code Sections 2.30, 4.50, 5.25, 8.12; AS 26 Chapter 20 (Civil Defense Act); AS26 Chapter 23 (Alaska Disaster Act); AS29 Chapter 35 (Hazardous Ordinances); AS46 Chapter 9 (Hazardous Substance Release Control); State of Alaska Emergency Response Plan (2004); Alaska Federal/State Preparedness Plan for Response to Oil and Hazardous Substance Discharges and Releases (Unified Plan) and Subarea Plans (also Federal Authority); Federal Statutes and Regulations, including PL 81-920 (Civil Defense Act of 1950 as amended); PL 93-288 (Disaster Act of 1974); PL 96-342 (Improved Civil Defense 1980); PL 99-499 (Emergency Planning and Community Right-to-Know Act of 1986; SARA Title III), Title III, Superfund Amendments and Re-Authorization Act of 1986; National Contingency Plan (1994); HSPD-5 (Homeland Security Presidential Directive); and the National Response Framework.

2. The EOP Document Format Standards

- a. Microsoft Word document format, 2003 or later, and include table of contents; Glossary of terms; Index
- b. One tabbed .PDF format document on CD or jump drive media
- c. Paper size printable at 8 ½” X 11”
- d. Final Draft of EOP to be placed in appropriate 3-ring binders (standard 3-hole format)
- e. Operational Checklists (8 ½” X 11” card stock and laminated)
- f. EOP User’s Guide
- g. A written preface to the EOP that will guide the user in the utilization of the EOP; including an EOP Overview; How to “jump” to a specific section; How to search for a keyword or topic.

3. Timeline for the EOP Update and Revision:

- a. All deliverables shall be completed on or before close of business on December 11, 2009;
- b. Nuka shall provide a monthly review of draft EOP to the City of Palmer EOP Team;
- c. Nuka shall provide the final document to Palmer by December 11, 2009.

4. Logistics for the EOP Update and Revision:

- a. Nuka shall coordinate any necessary meetings, whether in person, via teleconference, and/or the Internet to communicate with the City of Palmer EOP Team, any necessary stakeholders from the State of Alaska, Mat-Su Borough, or non-governmental entities including, but not limited to, the Red Cross; Mat-Su Regional Hospital; the Salvation Army;
- b. Nuka shall create and update a website to facilitate the EOP revision and update process;
- c. Nuka shall use e-mail, telephone, and internet communications to disseminate and collect information to update the EOP.

C. SERVICES PROVIDED BY PALMER

1. Palmer shall establish an EOP Revision/Update Team, composed of, at least, the Director of Public Safety; the Police Chief or a delegate; the Fire Chief or a delegate; the Director of Public Works or a delegate.

2. Palmer's EOP Update Team shall participate in the EOP revision/update process by providing information and feedback to Nuka.

D. NON-DISCRIMINATION

In performing its duties and obligations under this Agreement, no party may discriminate against any person in violation of law.

E. PAYMENTS

1. Palmer agrees to pay Nuka for services rendered under this agreement, not to exceed \$17,320.

2. The price above shall be remitted to Nuka within 30 days of successful completion to the City's satisfaction of the EOP deliverables, set forth in Section B of this Agreement.

F. COPYRIGHT ISSUES

The revised and updated EOP shall become sole property of the City of Palmer upon completion. This project is being funded solely by a grant through the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security and Emergency Management (DHS&EM). Per DHS&EM guidelines, Nuka shall have no copyrights to the revised and updated EOP.

G. INSURANCE REQUIREMENTS

Within 10 days of the signing of this Agreement, Nuka shall provide Palmer a certificate of insurance, including \$1,000,000 in professional liability insurance (or miscellaneous professional liability insurance, or Errors and Omissions coverage) and workers compensation insurance (\$500,000). The workers compensation insurance requirement may be waived if Nuka successfully demonstrates that it is a sole proprietorship and has no employees.

H. THIRD PARTY BENEFICIARY

This Agreement is for the benefit of the parties only and not for the benefit of any third party.

I. ASSIGNMENT

Nuka shall not assign an interest in this contract and shall not transfer any interest in the same without the prior written consent of the City to this Agreement.

J. EFFECT OF WAIVER

The failure of any party at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of any party thereafter to enforce each and every protection hereof.

K. SEVERABILITY

If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

L. GOVERNING LAW

Any civil action arising from this contract shall be brought in the superior Court for the Third Judicial District of Alaska at Palmer, only. The law of the state of Alaska shall govern the rights and obligations of the parties. The common law rule of construction against the drafter does not apply to this Agreement.

M. INTERPRETATION AND ENFORCEMENT

This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions, but are for identification purposes only.

N. NOTICES

Any notice required pertaining to the subject matter of the contract shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following address:

To the City of Palmer
City of Palmer
Director of Public Safety
231 West Evergreen
Palmer, Alaska 99645

Copy to:
City of Palmer
City Manager
231 West Evergreen
Palmer, Alaska 99645

To Nuka Research & Planning LLC
General Manager
PO Box 175
Seldovia, AK 99663

O. CAUSES BEYOND CONTROL

In the event a party is prevented by a cause or causes beyond control of the party from performing any obligation under this Agreement, non-performance resulting from such cause or causes shall not be deemed to be a breach of contract which will render the party liable for damages or give rights to the cancellation of the contract for cause. However, if and when such

cause or causes cease to prevent performance, the party shall exercise all reasonable diligence to resume and complete performance of the obligation with the least practicable delay. The phrase "cause or causes beyond control," as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the party and which prevent the performance of the party: fire, explosions, acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent the party from performing the terms of the contract as set forth herein. Events, which are peculiar to a party and would not prevent another similar party from performing, including, but not limited to financial difficulties, are not causes beyond the control of the party.

P. ENTIRE AGREEMENT

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than these contained herein, and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

Q. ACKNOWLEDGMENT

The parties acknowledge that they have read and understand the terms of this Agreement, have had the opportunity to review the same with counsel of their choice, and are executing this Agreement of their own free will.

R. AMENDMENTS, MODIFICATIONS AND SUPPLEMENTS

The parties may mutually agree to modify the terms of the contract. Modifications to the contract shall be incorporated into the contract by duly signed, written amendments.

CITY OF PALMER

B. B. ALLEN, Manager

Date

STATE OF ALASKA)
)ss
Third Judicial District)

On _____, 2009, B.B. Allen personally appeared before me, who is personally known to me to be the signer of the above document, and he acknowledged that he signed it.

NOTARY PUBLIC
My Commission expires: _____

NUKA RESEARCH AND PLANNING GROUP LLC

TIM L. ROBERTSON, Manager

Date

STATE OF ALASKA)
)ss
Third Judicial District)

On _____, 2009, Tim L. Robertson personally appeared before me, who is personally known to me to be the signer of the above document, and he acknowledged that he signed it.

NOTARY PUBLIC
My Commission expires: _____