



City of Valdez
Agreement for Professional Services

THIS AGREEMENT between the CITY OF VALDEZ, ALASKA, (“City”) and Grace Jang Solutions LLC (“Consultant”) is effective on the 25th day of March 2019.

All work under this agreement shall be referred to by the following:

Project: SB 57 Communications
Project No: TBD
Contract No.: TBD
Cost Code: 350-0202-55000 (Council Contingency Reserve)

Consultant’s project manager under this agreement is Grace Jang.

Consultant’s project manager may not be changed without the written consent of the City.

City’s project manager is Sheri Pierce.

ARTICLE 1. Scope of Work

1.1 The scope of work to be performed hereunder is more completely described in Appendix A which is incorporated herein by reference.

ARTICLE 2. Compensation

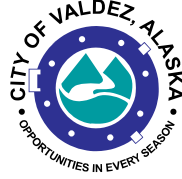
2.1 Compensation shall be paid in accordance with the Basis of Compensation Schedule attached hereto as Appendix B and incorporated herein by reference.

ARTICLE 3. Period of Performance

3.1 The Consultant agrees to commence work under this agreement only as authorized by and in accordance with written notice to proceed and to complete the work in accordance with the Scope of Work (Appendix A).

3.2 The period of performance under this Agreement shall be March 25, 2019 through August 31, 2019.

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ARTICLE 4. Subconsultants

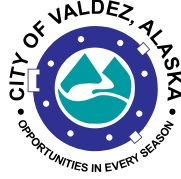
4.1 The Consultant shall be responsible for the performance of all services required under this Agreement.

ARTICLE 5. Appendices

5.1 The following appendices are attached to this Agreement and incorporated herein:

<u>Appendix</u>	<u>Title</u>
A	Scope of Work
B	Basis of Compensation
C	General Conditions

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IN WITNESS WHEREOF, the parties to this presence have executed this CONTRACT in two (2) counterparts, each of which shall be deemed an original, on the effective date mentioned above.

COMPANY NAME

BY: Grace Jang Solutions LLC

DATE: _____

TITLE: __Principal

FEDERAL ID #: _____

Mailing Address

City, State, Zip Code

Signature of Company Secretary or Attest

Date: _____

APPROVED:

Roxanne Murphy, Interim City Manager

Date: _____

ATTEST:

Sheri L. Pierce, MMC, City Clerk

Date: _____

APPROVED AS TO FORM:

Brena, Bell & Walker, P.C.

Jon S. Wakeland

Date: _____

CITY OF VALDEZ, ALASKA

Appendix A
Scope of Work

BASIC SERVICES

Develop and execute a strategic communications and coalition engagement plan in response to Governor Mike Dunleavy's proposal to eliminate a municipality's ability to tax oil and gas exploration, production and infrastructure (SB 57/HB 59).

Appendix B

Basis of Compensation

Upon submission of invoices by the Consultant, the City shall pay to consultant the compensation as follows: Not to exceed \$15,000 per month from March 25, 2019 – July 31, 2019.

Payment shall not exceed a sum total of \$45,000 (“not-to-exceed contract amount”) for services rendered under this agreement without prior authorization by the City as required in Section V of the General Conditions (Appendix C), which authorization shall not be unreasonably withheld or delayed.

Additionally, the City will be responsible to pay for costs and expenses that Consultant incurs on the City’s behalf or for the purpose of providing the services under this Agreement, which includes reasonable travel, dining and lodging expenses. Such costs and expenses are distinct from and shall not be applied against the not-to-exceed contract amount.

The City shall pay all invoices submitted by the Consultant within 30 days of receipt of the invoice from the Consultant.

Appendix C General Conditions

I. Definitions:

Basic Services: The identified work elements set forth in this Agreement for which the Consultant will receive prime compensation.

Change: An addition to, or reduction of, or other revision in the scope, complexity, character, or duration of the services or other provisions of this Agreement.

City's Project Manager: City's representative in charge of the project(s) and the consultant's primary point of contact for notice(s) to proceed, invoices, correspondence and interface with the City.

Consultant's Project Manager: The Consultant's representative in charge of the project(s) who is directly responsible and engaged in performing the required services.

Extra Services: Any services or actions required of the Consultant above and beyond provisions of this Agreement.

Funding Agency(s): The agency(s) of the federal, state or municipal government which furnishes funds for the Consultant's compensation under this Agreement.

Optional Services: Identifiable and/or indeterminate work elements set forth in this Agreement, which are separate and distinct from those covered by the prime compensation, which the City has the option to authorize.

Prime Compensation: The dollar amount paid to the Consultant for basic services set forth in this Agreement. Prime compensation does not include payment for any optional or extra services.

Scope of Work: Basic and optional services required of the Consultant by provisions of this Agreement.

Subconsultant: Any person, firm, corporation, joint venture, partnership or other entity engaged through or by Consultant.

II. Information and Services from Others:

Provisions of information, data, budget, standards, and other materials by the City does not warrant their accuracy or quality nor provide approval of omissions or oversights or of any non-compliance with applicable regulation.

The City may, at its election, or in response to a request from the Consultant, furnish information or services from other Consultants. If, in the Consultant's opinion, such information or services are inadequate, the Consultant must notify the City of the specific service or material deemed inadequate and the extent of the inadequacy prior to use in the performance of this Agreement. Unless so notified by the Consultant, the City may assume the information or services provided are adequate.

III. Indemnification

To the fullest extent permitted by law, the Consultant shall indemnify, defend, and hold harmless the City from and against any claim of, or damages, losses, expenses and liability (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals, and court, mediation and/or arbitration costs) for negligent acts, errors, and omissions under this Agreement of the Consultant, Subconsultant, persons or organizations directly or indirectly employed or engaged by Consultant or Subconsultant. The Consultant is not required to indemnify, defend, or hold harmless the City for a claim of, or damages, losses, expenses or liability (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals, and court, mediation and/or arbitration costs) for the independent negligent acts, errors, and omissions of the City.

To the fullest extent permitted by law, the City shall indemnify, defend, and hold harmless the Consultant from and against any claim of, or damages, losses, expenses and liability (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals, and court, mediation and/or arbitration costs) for negligent acts, errors, and omissions of the City or persons or organizations directly or indirectly employed or engaged by the City under this Agreement. The City is not required to indemnify, defend, or hold harmless the Consultant or Subconsultant for a claim of, or damages, losses, expenses or liability (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals, and court, mediation and/or arbitration costs) for the independent negligent acts, errors, and omissions of the Consultant or Subconsultant.

If there is a claim of, or liability for a joint negligent act, error, or omission of the Consultant and the City, the indemnification, defense, and hold harmless obligation of this provision shall be apportioned on a comparative fault basis. In this provision, "Consultant" and "City" include the employees, agents, and contractors who are directly responsible, respectively, to each. In this provision, "independent negligent acts, errors, and omissions" means negligence other than in the City's selection, administration, monitoring, or controlling of the Consultant, or in approving or accepting the Consultant's work.

IV. Payments:

Payments shall be made in accordance with Appendix B. For any work performed after May 1, 2019, Consultant shall submit invoices to City in duplicate describing the services performed during the invoice period and the charges therefore.

Under no circumstances will City pay for the not-to-exceed contract amount (which does not include costs or expenses) incurred prior to written authorization by City for an increase in the contract amount. Written request for an increase in the contract amount shall be given to City with sufficient notice to allow City to issue formal approval prior to the incurring of excess charges without delay to the work.

The sum of payments shall not exceed the allowable compensation stated in this Agreement. In the event items on an invoice are reasonably disputed, payment on those items will be withheld until the dispute is resolved.

The Consultant shall submit a final invoice within Ninety (90) days after completion of all services under this Agreement. The City will not be held liable for payment of invoices submitted after this time unless prior written approval has been given.

V. Changes:

Changes in the Scope of Work or of services may only be made by written amendment signed by both City and Consultant.

If at any time the City through its authorized representatives requests or issues instructions for extra services or otherwise directs actions which conflict with any provisions of this Agreement, such requests, instructions, or directions shall be made in writing. The Consultant shall, within ten (10) business days of receipt of the written request, instruction, or direction (and prior to pursuing such request, instruction, or direction), notify the City in writing, and to the extent possible, describe the scope and estimated cost of any extra services. Unless so notified by the Consultant, the City may assume such instructions have not changed any provisions of this Agreement nor require additional compensation. No additional payments shall be made to the Consultant without such notice.

VI. Audits and Records:

The Consultant shall maintain records of all performances, communications, documents, and correspondence pertinent to this Agreement, and the City or its authorized representatives shall have the right to examine such records and accounting procedures and practices.

With reasonable prior notice by the City to the Consultant, the materials described in the Article shall be made available at the business office of the Consultant, at all reasonable times, for inspection, audit or reproduction by City or any funding agency, for a minimum of three years from the date (a) of final payment under this Agreement (b) final payment upon

claims or disputes, and for such longer period, if any, as may be required by applicable statute or other provisions of this Agreement.

VII. Inspections:

The City, or any funding agency, has the right to inspect, in the manner and at reasonable times it considers appropriate during the period of this Agreement, all facilities, materials and activities of the Consultant in the performance of this Agreement.

VIII. Termination or Suspension:

This Agreement may be terminated by either party upon ten (10) days' written notice if the other party fails substantially to perform in accordance with its terms through no fault of the party initiating the termination (default termination). If the City terminates this Agreement, the City will pay the Consultant all outstanding invoices submitted by the Consultant and the final invoice submitted by Consultant for any services performed and costs incurred that have not yet been billed prior to the termination. If the City becomes aware of any fault or defect in the work of the Consultant or nonconformance with this Agreement, the City will give prompt written notice thereof to the consultant.

The City and the Consultant at any time may terminate (convenience termination) this Agreement for their own needs or convenience, upon ten (10) days' written notice. Any such convenience termination must be in writing. In the event of a convenience termination, the Consultant will be compensated for services performed, and expenditures incurred, under this Agreement up through the date of the convenience termination (*i.e.*, including the 10 days after written notice), plus reasonable termination expenses.

If state or federal funds support this Agreement, settlement in the event of default or convenience termination must be approved by the City and any appropriate state or federal agency.

IX. Officials Not to Benefit:

No member of or delegate to Congress, United States Commissioner or other officials of federal, state or local government shall be admitted to any share or part of this Agreement or any benefit to arise therefrom. The Consultant warrants that it has not employed or retained any organization or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any consideration contingent upon or resulting from this Agreement.

X. Independent Consultant:

Except in those instances specifically provided for herein, the Consultant and any of its agents and employees shall act in an independent capacity and not as agents of the City in the performance of the Agreement.

XI. Ownership of Work Products:

Work products produced under this Agreement, except items which have preexisting copyrights, are the property of the City. Payments to the Consultant for services hereunder includes full compensation for all work products, field notes, interim work, reports, and other materials produced by the Consultant and its Subconsultants pertaining to this Agreement. Any re-use the City might make of these work products shall be at the City's own risk and the Consultant shall not incur any liability for the City's re-use of the work products on any project for which they were not intended.

XII. Subconsultants, Successors and Assigns:

The City must concur in the selection of all Subconsultants for professional services to be engaged in performance of this Agreement.

As soon as practicable after the award of the contract, the Consultant shall furnish to the City in writing the names of the proposed Subconsultants for each of the principal portions of the work. The City shall promptly notify the Consultant if it has reasonable objection to any of the proposed Subconsultants. Failure of the City to give prompt notification shall constitute notice of no reasonable objection. The Consultant shall not contract with any Subconsultant to whom the City has made reasonable objection.

If this Agreement includes named firms or individuals, then such firms or individuals shall be employed for the designated services, unless the Agreement is changed by amendment.

The Consultant shall not assign, sublet or transfer any interest in this Agreement without the prior written consent of the City.

The Consultant binds itself, its partners, its Subconsultants, assigns and legal representatives to this Agreement and to the successors, assigns and legal representatives of the City with respect to all covenants of this Agreement.

The Consultant shall include provisions appropriate to effectuate the purposes of this Appendix C in all subcontracts executed to perform services under this Agreement in which subcontract amount exceeds \$40,000.

XIII. Claims and Disputes:

If the Consultant becomes aware, or reasonably should have become aware of any act or occurrence which may form the basis of a claim, the Consultant shall immediately inform the City's Project Manager. If the matter cannot be resolved within seven (7) days, the Consultant shall within the next fourteen (14) days submit written notice of the facts which may form the basis of the claim.

In addition, all claims by the Consultant for additional compensation or an extension of the time for performance of any dispute regarding a question of fact or interpretation of this Agreement shall be presented in writing by the Consultant to the City's Project Manager within the next sixty (60) days unless the Project Manager agrees in writing to an extension of time for good cause shown. Good cause shown includes time for the Consultant to prepare the claim, and the City's Project Manager will grant an extension of not more than sixty (60) days for preparation of the claim. The Consultant agrees that unless these written notices are provided, the Consultant shall not be entitled to additional time or compensation for such act, event or condition.

In presenting any claim, the Consultant shall specifically include, to the extent then possible, the following:

- The provisions of this Agreement that apply to the claim and under which it is made.
- The specific relief requested including any additional compensation claimed and the basis upon which it was calculated and/or the additional time requested and the basis upon which it was calculated.

The claim will be acknowledged in writing by the City's Project Manager. If the claim is not disposed of within sixty (60) days of acknowledgement, provided additional time is not granted in writing by the City's Contract Officer, the claim will be decided by the City's Contract Officer. The Contract Officer reserves the right to make a written request to the Consultant at any time for additional information that the Consultant may possess to support the claims(s). The Consultant agrees to provide the City such additional information within thirty (30) days of receipt for such a request. The City's Contract Officer will allow a reasonable time extension for good cause if presented in writing prior to the expiration of the thirty (30) days. Failure to furnish such additional information constitutes a waiver of claim.

The Consultant will be furnished a written, signed copy of the Contract Officer's decision within ninety (90) days of receipt of all necessary information from the Contractor upon which to base the decision. The Contract Officer's decision is final and conclusive unless, within thirty (30) days of receipt of the decision, the Consultant delivers a notice of appeal to the City Manager. The notice of appeal shall include specific exceptions to the City's decision including specific provision of this Agreement which the Consultant intends to rely upon on appeal. General assertions that the City's decision is contrary to law or to fact are not sufficient.

The decision of the City Manager will be rendered within 120 days of notice of appeal and the decision constitutes the exhaustion of contractual and administrative remedies.

Nothing herein shall limit the Consultant's right to pursue its claims or disputes outside of these contractual and administrative remedies, including without limitation any judicial remedies.

XIV. Extent of Agreement:

This Agreement, including appendices, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral.

Nothing contained herein may be deemed to create any contractual relationship between the City and any Subconsultants or material suppliers; nor may anything contained herein be deemed to give any third party a claim or right of action against the City or the Consultant that does not otherwise exist without regard to this Agreement.

This Agreement may be changed only by written amendment executed by both the City and the Consultant.

All communications that affect this Agreement must be made or confirmed in writing.

The Consultant shall pay all federal, state and local taxes incurred by the Consultant and shall require payment of such taxes by any Subconsultant or any other persons in the performance of this Agreement.

XV. Governing Laws:

This Agreement is governed by the laws of the State of Alaska and such federal and local laws and ordinances as are applicable to work performed. Any litigation arising out of the terms of this Agreement shall be brought in the Third Judicial District, Superior or District Court at Valdez.

XVI. Minimum Wages:

Minimum wages as determined by the Department of Labor shall be paid to all persons performing work on this Agreement.