

K21-005

AMENDMENT NO. 5 TO A PROFESSIONAL SERVICES AMENDMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

MOTT MACDONALD, LLC

BOURBON STREET RECONSTRUCTION

PHASE I (CANAL ST. – ST. LOUIS ST.) & PHASE II (ST. LOUIS ST. – DUMAINE ST.)

THIS F^ETH AMENDMENT (the “**Amendment**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Mott MacDonald, LLC, represented by Kendall Kilpatrick, its authorized agent (the “**Engineer**”). The City and the Engineer may sometimes be collectively referred to as the “**Parties**.” The Amendment is effective as of the date of execution by the City (the “**Effective Date**”).

KLL
2-10-2021

RECITALS

WHEREAS, the City and the Engineer are parties to a professional services agreement dated May 25, 2017 (the “**Agreement**”) for the Engineer to provide professional engineering design, construction administration, and resident inspection services for the full reconstruction of Bourbon Street from Canal Street to Dumaine Street (the “**Project**”);

WHEREAS, due to delays during construction of the Project, it became necessary to divide the Project into two phases – Phase I includes the reconstruction of Bourbon Street from Canal Street to St. Louis Street and Phase II includes the reconstruction of Bourbon Street from St. Louis Street to Dumaine Street;

WHEREAS, on February 14, 2018, the City and the Engineer amended the Agreement for the first time to extend its term for continuity of services to modify the Engineer’s scope of work, and to increase compensation;

WHEREAS, on August 23, 2018, the City and the Engineer amended the Agreement for the second time to delete the retainage requirement;

WHEREAS, on February 28, 2019, the City and the Engineer amended the Agreement for the third time to extend its term for continuity of services;

WHEREAS, on February 4, 2020, the City and the Engineer amended the Agreement for the fourth time to extend its term for continuity of services, to modify the scope of work to provide additional services under Phases I and II and to add the 800 block of St. Ann Street to the Project, and to increase the compensation accordingly;

WHEREAS, the City and Engineer now desire to amend the Agreement to the Engineer to extend its term for continuity of services;

NOW THEREFORE, the City and the Engineer agree as follows:

A. EXTENSION: The term of the Agreement is extended for ONE (1) YEAR from March 20, 2021 through March 19, 2022.

B. LIVING WAGES:

1. ***Definitions.*** Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

2. ***Compliance.*** To the fullest extent permitted by law, the Engineer agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

- Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code ("**Living Wage**");
- Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and
- Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

3. ***Current Living Wage.*** In accordance with the Living Wage Ordinance, the current Living Wage per the Consumer Price Index data is equal to \$11.19. The Engineer shall be responsible for confirming the Current Living Wage by visiting <https://www.nola.gov/economic-development/workforce-development/>.

4. ***Adjusted Living Wage.*** In accordance with Section 70-806(2) of the City Code, the Engineer acknowledges and agrees that the Living Wage may be increased during the term of the Agreement. Any City contract or City financial assistance agreement (a) extending from one calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted Living Wage, accounting for the annual Consumer Price Index adjustment. The indexing adjustment shall occur each year on July 1st using the Consumer Price Index figures provided for the calendar year ended December 31st of the preceding year, and thereafter on an annual basis.

5. ***Subcontract Requirements.*** As required by Section 70-804 of the City Code, the Engineer, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance ("**Article**"). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

6. ***Reporting.*** On or before January 31st and upon request by the City, the Engineer shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance 1
340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

7. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “OWD”) and/or the Chief Administrative Office (“CAO”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Engineer will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Engineer agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Engineer, payroll records and employee paychecks; and (ii) that the City may audit such records of the Engineer, as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

8. **Remedies.** If the Engineer fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

C. **CONVICTED FELON STATEMENT:** The Engineer complies with City Code § 2-8(c) and no principal, member, or officer of the Engineer has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

D. **NON-SOLICITATION STATEMENT:** The Contactor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Amendment. The Engineer has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment.

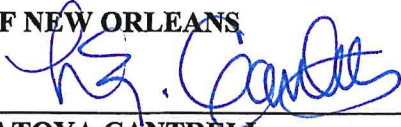
E. **PRIOR TERMS BINDING.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement, as amended, remain in full force and effect.

F. **ELECTRONIC SIGNATURE AND DELIVERY.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Amendment.

(Signatures contained on the following page)

IN WITNESS WHEREOF, the City and the Engineer, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

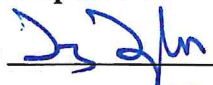
BY: 

LATOYA CANTRELL,
MAYOR

Executed on this 18th of FEBRUARY, 2021.

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Tracy Tyler

MOTT MACDONALD, LLC

BY: 

KENDALL KILPATRICK,
AUTHORIZED AGENT

FEDERAL 