

K20-784

COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

NEW ORLEANS POLICE AND JUSTICE FOUNDATION, INC.

NOPD RECRUITING CAMPAIGN

THIS COOPERATIVE ENDEAVOR AGREEMENT (the “**Agreement**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and the New Orleans Police and Justice Foundation, Inc., represented by Melanie A. Talia, Chief Executive Officer (the “**NOPJF**” or “**Contractor**”). The City and the Contractor may sometimes be collectively referred to as the “**Parties**.” The Agreement is effective as of the August 1, 2020 (the “**Effective Date**”).

RECITALS

WHEREAS, the City is a political subdivision of the State of Louisiana;

WHEREAS, the NOPJF is a non-profit corporation, which principal address is located at 141 Robert E. Lee Blvd., #210, New Orleans, LA 70124;

WHEREAS, the mission of NOPJF is to make New Orleans a safer place in which to live, to work, and to visit by promoting excellence in policing, efficiency in criminal justice and positive community engagement;

WHEREAS, pursuant to Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

WHEREAS, the City and the NOPJF desire to accomplish a valuable public purpose of enhancing public safety and job opportunities for City’s citizens through the recruitment of qualified police officers for the New Orleans Police Department (the “**Recruitment Campaign**”);

WHEREAS, the NOPJF will develop, implement, and manage the Recruitment Campaign in coordination with the City; and

WHEREAS, the City will provide funding for NOPJF’s expenditures related to their recruitment efforts.

NOW THEREFORE, the City and the NOPJF, each having the authority to do so, agree as follows:

ARTICLE I - THE NOPJF'S OBLIGATIONS

The NOPJF will:

- A. Focus the Recruitment Campaign efforts on six primary areas of support: (1) website, (2) paid advertising, (3) marketing materials, (4) background investigations, (5) direct recruitment, (6) national and digital testing, and (7) related support activities as requested by the City and agreed to in writing by NOPJF.
 1. **Website - JoinNOPD.org.** NOPJF shall assist the City with continued development and maintenance of a website to attract recruits, streamline the application process and inform the recruit about the New Orleans Police Department ("NOPD"). As such, the website will:
 - a. Catalyze the compulsion to apply;
 - b. Realistically outline the application process;
 - c. Provide resources to assist the applicant; and
 - d. Initiate the civil service application process in coordination with Civil Service.
 2. **Paid Advertising.** NOPJF shall continue to aggressively market NOPD recruitment upon execution of this Agreement. NOPJF shall provide two categories of advertising (i) active outreach intended to initiate consideration of a career with the NOPD among qualified candidates and (ii) passive marketing to make the website, www.JoinNOPD.org, easy to find through employment searches. These categories more specifically include:
 - a. Active outreach includes tactics such as:
 - i. Internet Display (military support sites; regional law enforcement support sites; employment resources); and
 - ii. Behavioral Targeted Display.
 - b. Passive marketing includes tactics such as:
 - i. Paid search; and
 - ii. Conquesting (focusing on employment or armed forces searches).
 - c. Advertising efforts should focus on priority applicants, including:
 - iii. Bilingual applicants: Hispanic and Vietnamese;
 - iv. College educated applicants;
 - v. Military Veterans;
 - vi. Lateral transfers from other law enforcement agencies; and
 - vii. Qualified residents of New Orleans.
 3. **Marketing Materials.** NOPJF will develop and produce marketing materials to tie NOPD's recruiting visits to schools and job fairs together with the message of the recruitment campaign. NOPJF will develop branded marketing materials and other resources to represent NOPD recruiting efforts, including collateral brochures, posters or other printed materials to be handed out or posted. All marketing materials shall clearly point recruits to www.JoinNOPD.org.
 4. **Background Investigations.** In an effort to expedite the processing of NOPD background investigations for applicants applying for employment with NOPD in a commissioned capacity, NOPJF may contract with background investigation vendors and assist with the management of outsourced background investigations.

5. **Direct Recruitment.** At the City's direction, NOPJF will assist with efforts to direct recruit new applicants. This may include contracting directly with a staffing firm tasked with screening and referring new candidates to NOPD's hiring process.
 6. **National and Digital Testing.** In an effort to facilitate a more efficient process for evaluating recruits and to encourage more applicants from outside the state to take the Civil Service exam, the funds for this agreement may also be used to support efforts to sustain a national testing and/or digital testing platform(s).
 7. **Related Support Activities.** NOPJF may be asked by the City to undertake additional activities to supplement or enhance NOPD's recruitment efforts. For such activities not explicitly detailed in the above paragraphs, the City's point of contact will make a request of NOPJF's primary project manager. NOPJF will review this request and confirm that sufficient funding is available to support the request. NOPJF will not be obligated to undertake such additional support activities unless and until they agree in writing to enact such a request.
 8. **Matching Funds.** Additionally, NOPJF will attempt to raise matching from outside sources for all funds received from the City, up to a maximum of \$150,000.00, to fund the recruitment efforts. NOPJF will segregate all funding under this Agreement, including the City's contribution of \$300,000.00 and NOPJF's funding in a separate fund or account. Funding for this Cooperative Endeavor Agreement includes residual funds from the 2019 Recruiting CEA allocation in lieu of those funds being returned to the City. NOPJF is specifically instructed to retain said funds.
- B. **Coordination.** Consult and coordinate with NOPD and the City on strategy and projects; obtain final approval from the City of all contents of the marketing campaign in advance of their use; and provide a primary project manager to work with the City to implement and comply with the terms of this Agreement.
- C. **Progress Reports.** Provide the City updates upon request, but not less than one update per quarter, on progress and upcoming plans under this Agreement, including detailed account balance and expenditure reports that detail the amount spent during the last quarter or requested time period, the cumulative amount spent year to date, and the total amount of funding still available; and provide a final report to the City at the termination of this Agreement that details all services accomplished and the use of the funds received in connection with this Agreement.
- D. **Non-Disclosure Agreements.** Require personnel and contractors to sign a non-disclosure agreement prohibiting the sharing of any information, confidential or otherwise, acquired by virtue of his/her role as personnel or contractor.
- E. **Maintenance of Records.** NOPJF will maintain a strict accounting of all funds, reporting to the City upon request and obtaining and supplying a detailed annual audit of all income, expenses, and operations relative to this Agreement.

ARTICLE II - THE CITY'S OBLIGATIONS

Administration. The City will:

- A. Administer this Agreement through the NOPD;

- B. Provide the NOPJF with any documents and access to all personnel records and databases deemed necessary for the NOPJF's performance of any work required under this Agreement;
- C. Provide access to NOPD personnel to discuss the required services during normal working hours, as requested by the NOPJF;
- D. Provide consultation and coordination on all strategy and projects;
- E. Provide prompt approval or feedback for revisions of all contents of the marketing campaign in advance in its discretion;
- F. Provide a primary point of contact to work with NOPJF to implement and oversee this Agreement;
- G. Approve or reject invoices and notify NOPJF of approval or rejection of invoices within five business days of receipt. The City may reject an invoice if insufficient outside funds have been raised. If the City rejects an invoice, the City will clearly outline its objections and will request that NOPJF address the concerns and resubmit the invoice. If the City does not respond to a request for approval within five business days, the invoice shall be deemed to be approved; and
- H. Provide a check for payment of invoices not later than seven business days after approval.

ARTICLE III - COMPENSATION

- A. **Maximum Amount.** The maximum amount payable by the City under this Agreement is \$300,000.00.
- B. **Installments.** The City will provide an initial installment of \$150,000.00 upon execution of this Agreement, a second installment four months after the Effective Date, and the final installment eight months after the effective date. However, the City will retain the right to amend, including acceleration of, the installment terms if it determines that doing so is necessary to ensure continuity of services to support the recruitment campaign.
- C. **Matching Outside Funds.** NOPJF will demonstrate that it has raised sufficient outside funds (including, but not limited to, private funding or grant funding dedicated to NOPD recruitment efforts) that contribute a match for funds requested from the City, up to the \$150,000.00 maximum. However, the City will retain the right to approve and pay an installment even if insufficient outside funds have been raised, if it determines that doing so is necessary to ensure continuity of services to support the recruitment campaign.

ARTICLE IV - DURATION AND TERMINATION

- A. **Term.** The term of this agreement shall be for one year from the Effective Date through July 31, 2021.

- B. **Termination for Convenience.** Either Party may terminate this Agreement at any time during the term of the Agreement by giving the other Party written notice of the termination at least 30 calendar days before the intended date of termination.
- C. **Termination for Cause.** Either Party may terminate this Agreement immediately for cause by sending written notice to the Other Party stating its intent to terminate and reasons therefor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.
- D. **Termination for Non-Appropriation.** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

ARTICLE V - INDEMNITY

- A. To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Contractor, its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Agreement.
- B. **Limitation.** The Contractor's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Contractor nor any of its agents or employees contributed to such gross negligence or willful misconduct.
- C. **Independent Duty.** The Contractor has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Contractor is ultimately absolved from liability.
- D. **Expenses.** Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

ARTICLE VI - INSURANCE

A. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the NOPJF will maintain the following insurance in full force and effect for the duration of the work under this Agreement:

1. **Minimum Scope of Insurance:** Coverage shall be at least as broad as the following:
 - a. **Commercial General Liability ("CGL"):** Insurance Services Office Form, covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - b. **Workers' Compensation:** as required by the State of Louisiana, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease.
 - c. **Professional Liability (Errors and Omissions):** with limits no less than \$1,000,000.00 per claim.
 - d. **Employee Dishonesty (Fidelity Bond/Crime Insurance):** Contractor shall maintain Employee Dishonesty coverage and, when applicable, Inside/Outside Money & Securities coverages for City property in the care, custody and control of the contractor. Coverage limits shall not be less than \$1,000,000.00.
2. **Other Insurance Provisions.**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- a. **Additional Insured Status.** Contractor will provide, and maintain current, a Certificate of Insurance naming The City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate holder and be delivered via U.S. Mail to 1300 Perdido Street, 9E06—City Hall, New Orleans, LA 70112.
- b. **Primary Coverage.** For any claims related to this contract, Contractor's insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to Contractor's coverage.
- c. **Claims Made Policies.** The retroactive date must be shown and must be before the date of the contract or the beginning of work. If the coverage is canceled or

non-renewed, and not replaced with another claims-made policy, Contractor must purchase “extended reporting” coverage for minimum of five years after the termination of this agreement.

- d. **Waiver of Subrogation.** Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this contract.
 - e. **Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with prior notice to the City of no less than 30 days.
 - f. **Acceptability of Insurers.** Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to the City.
- B. The NOPJF will provide the City’s Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112 – Ref.: New Orleans Police and Justice Foundation) at the City’s request the following documents:
- 1. Proof of coverage for each policy of insurance required by this Agreement;
 - 2. Copy of the fully executed Agreement;
 - 3. Copies of all policies of insurance, including all policies, forms, and endorsements; and
 - 4. Statements disclosing any policy aggregate limit.
- C. Without notice from the City, the NOPJF will:
- 1. Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;
 - 2. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement; and
 - 3. Notify the City’s Risk Manager in writing within 48 hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement.

ARTICLE VII - LIVING WAGES

- A. **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.
- B. **Compliance.** To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:
 - 1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“Living Wage”);

2. 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
 3. 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.
- C. *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 Contractor shall be responsible for confirming the Current Living Wage by visiting <https://www.nola.gov/economic-development/workforce-development/>.
- D. *Adjusted Living Wage.*** In accordance with Section 70-806(2) of the City Code, the Contractor 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.
- E. *Subcontract Requirements.*** As required by Section 70-804 of the City Code, the Contractor, 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.
- F. *Reporting.*** On or before January 31st and upon request by the City, the Contractor 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
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112
- G. *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 Contractor 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 Contractor 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 Contractor, payroll records and employee paychecks; and (ii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

- H. Remedies.** If the Contractor 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.

ARTICLE VIII - NON-DISCRIMINATION

- A. Equal Employment Opportunity.** In all hiring or employment made possible by, or resulting from this Agreement, the NOPJF (1) will not be discriminate against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.
- B. Non-Discrimination.** In the performance of this Agreement, the NOPJF will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex (gender), sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the NOPJF in any of NOPJF's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The NOPJF agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VII of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.
- C. Incorporation into Subcontracts.** The NOPJF will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will

require all subcontractors to comply with those provisions.

- D. The City may terminate this Agreement for cause if the NOPJF fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE IX - INDEPENDENT CONTRACTOR

- A. **Independent Contractor Status.** The NOPJF is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.
- B. **Exclusion of Worker's Compensation Coverage.** The City will not be liable to the NOPJF, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the NOPJF will not be considered an employee of the City for the purpose of Worker's Compensation coverage.
- C. **Exclusion of Unemployment Compensation Coverage.** The NOPJF, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(E) and neither the NOPJF nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the NOPJF has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by the NOPJF are outside the normal course and scope of the City's usual business; and (c) the NOPJF has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.
- D. **Waiver of Benefits.** The NOPJF, as an independent contractor, will not receive from the City any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

ARTICLE X - NOTICE

- A. **In General.** Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:
1. To the City:
Superintendent of Police
New Orleans Police Department
715 S. Broad Street
New Orleans, LA 70119

&

City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the Contractor:

Melanie A. Talia
Chief Executive Officer
141 Robert E. Lee Blvd., #210
New Orleans, LA 70124
&

NOPJF Accounting Department
320 Metairie Hammond Hwy., # 519
Metairie, LA 70005

- B. **Effectiveness.** Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.
- C. **Notification of Change.** Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

ARTICLE XI - ADDITIONAL PROVISIONS

- A. **Amendment.** No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.
- B. **Assignment.** This Agreement and any part of either party's interest in it are not assignable or transferable without prior written consent of the other party.
- C. **Audit and Other Oversight.** The NOPJF will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the NOPJF to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests is a material breach of the Agreement. In signing this Agreement, the NOPJF agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.
- D. **Choice of Law.** This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.
- E. **Conflicting Employment.** To ensure that the NOPJF's efforts do not conflict with the City's interests, and in recognition of the NOPJF's obligations to the City, the NOPJF will decline any offer of other employment if its performance of this Agreement is likely to be adversely affected by the acceptance of the other employment. The NOPJF will promptly notify the City in writing of its intention to accept the other employment and will disclose all possible effects of the other employment on the NOPJF's performance of this Agreement. The City will make the final determination whether the Contractor may accept the other employment.

- F. **Cost Recovery.** In accordance with Section 2-8.1 of the Municipal Code entitled “Cost recovery in contracts, cooperative endeavor agreements, and grants,” to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.
- G. **Construction of Agreement.** Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or the NOPJF on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.
- H. **Convicted Felon Statement.** The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding five 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.
- I. **Employee Verification.** The NOPJF swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the NOPJF a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the NOPJF being ineligible for any public contract for a period of three years from the date the violation is discovered. The NOPJF further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The NOPJF will provide to the City a sworn affidavit attesting to the above provisions if requested by the City. The City may terminate this Agreement for cause if the NOPJF fails to provide such the requested affidavit or violates any provision of this paragraph.
- J. **Entire Agreement.** This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.
- K. **Jurisdiction.** The NOPJF consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of the NOPJF.

- L. **Limitations of the City's Obligations.** The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.
- M. **No Third Party Beneficiaries.** This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.
- N. **Non-Exclusivity.** This Agreement is non-exclusive and the NOPJF may provide services to other clients. The City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.
- O. **Non-Solicitation Statement.** The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Contractor 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 Agreement.
- P. **Non-Waiver.** The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.
- Q. **Ownership Interest Disclosure.** The NOPJF will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in the NOPJF and stating that no other person holds an ownership interest in the NOPJF via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the NOPJF fails to submit the required affidavit, the City may, after 30 days' written notice to the NOPJF, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.
- R. **Ownership of Records.** Upon final payment, all data collected and all products of work prepared, created or modified by the NOPJF in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, (collectively, "Work Product") will be the exclusive property of City and the City will have all right, title and interest in any Work Product, including without limitation the right to secure and maintain any copyright, trademark, or patent of Work Product in the City's name. NOPJF shall retain ownership and shall have all right, title and interest to NOPJF's personnel and administrative records and any tools, systems, and information used by NOPJF to perform the services under this Agreement including computer software, object and source code, know how, methodologies, equipment, and processes and any related intellectual property. No Work Product that is the exclusive property of the City as defined above may be reproduced in any form without the City's express written consent. The City may use and distribute any Work Product for any purpose the City

deems appropriate without the NOPJF's consent and for no additional consideration to the NOPJF. In case of request(s) made by federal or state authorities, or request(s) made for the purpose of an audit by a government or a non-government agency, the City's express written consent is waived, and the NOPJF will notify the City of said reproduction.

- S. **Prohibition of Financial Interest in Agreement.** No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of the NOPJF, shall render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the NOPJF pursuant to this Agreement without regard to the NOPJF's otherwise satisfactory performance of the Agreement.
- T. **Prohibition on Political Activity.** None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.
- U. **Remedies Cumulative.** No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.
- V. **Severability.** Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.
- W. **Subcontractor Reporting.** The NOPJF will provide a list of all natural or artificial persons who are retained by the NOPJF at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with the NOPJF's work for the City. For any subcontractor proposed to be retained by the NOPJF to perform work on the Agreement with the City, the NOPJF must provide notice to the City within 30 days of retaining that subcontractor. If the NOPJF fails to submit the required lists and notices, the City may, after 30 days' written notice to the Contractor, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.
- X. **Survival of Certain Provisions.** All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

Y. **Terms Binding**. The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE XII - ELECTRONIC SIGNATURE AND DELIVERY

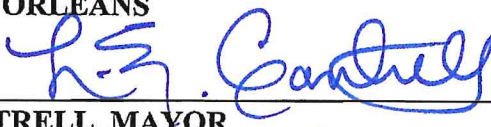
The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

[The remainder of this page is intentionally left blank]

[SIGNATURES CONTAINED ON NEXT PAGE]

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

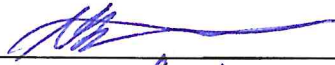
CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 6TH of August, 2020

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Andrew Gregorian

NEW ORLEANS POLICE AND JUSTICE FOUNDATION

BY: 
MELANIE A. TALIA, CHIEF EXECUTIVE OFFICER

FEI