

K20-748

**AMENDMENT NO. THREE TO
CONTRACT
BETWEEN
THE CITY OF NEW ORLEANS
BY AND THROUGH
THE NEW ORLEANS AVIATION BOARD
AND
HI-LITE AIRFIELD SERVICES, LLC**

THIS AMENDMENT is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "City"), by and through the New Orleans Aviation Board, represented by the Hon. Michael G. Bagneris, Chairman, (the "Board") (the City and the Board are collectively referred to as "Airport"), and **Hi-Lite Airfield Services, LLC** represented by **Theodore Misiewicz, Chief Financial Officer** (the "Contractor"). The Airport and the Contractor are sometimes collectively referred to as the "Parties." The Amendment is effective June 29, 2020 (the "Effective Date").

RECITALS

WHEREAS, on June 29, 2017, the Airport and the Contractor entered into a contract for airfield painting and accumulated rubber removal annual maintenance (the "Agreement");

WHEREAS, the First Amendment dated June 29, 2018 provided for the exercise of the first of three (3) one (1) year renewal periods even though the original Agreement provides for four (4) one (1) year renewal periods and allocated additional funding;

WHEREAS, the Second Amendment dated June 29, 2019 provided for the exercise of the second of three(3) one (1) year renewal periods even though the original Agreement provides for four (4) one (1) year renewal periods and allocated additional funding;

WHEREAS, the Airport and the Contractor, each having the authority to do so, desire to enter this Amendment to exercise the third of four (4) one (1) year renewal periods and allocate additional funding and

WHEREAS, the Board approved this Amendment at its meeting held on **April 16, 2020**.

NOW THEREFORE, for good and valuable consideration, the Airport and the Contractor amend the Agreement as follows:

1. **Extension.** In accordance with Section 17 of the original Agreement, the term is extended for an additional year from the Effective Date through **June 28, 2021**.
2. **Compensation.** The maximum amount payable for the services to be provided during the one-year term under this Amendment is **\$250,000.00**. The total amount of remuneration for this Agreement is amended to a total amount not to exceed **\$1,705,870.00**.
 - a. **Cost Recovery.** In accordance with Section 2-8.1 of the New Orleans Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the NOAB or disgorge anything of value or economic benefit received from the NOAB if the Contractor fails to meet its contractual obligations.

3. **Additional Miscellaneous Provisions.** The following terms and conditions are added to the Agreement:

HireNOLA Program

The Contractor agrees to abide by City Code sections 70-496, *et seq.*, to demonstrate good faith efforts to fully carry out the applicable requirements of the HireNOLA Program as defined in the City Code. If the Contractor fails to comply with the requirements of the HireNOLA Program during the term of the Agreement, said failure may result in termination of the Agreement or pursuit of other remedies.

Payment of Invoices.

Contractor shall submit invoices monthly for work performed in the immediate prior month. The Airport will take a minimum of 45 days to process all invoices and pay applications. All payments will be made by check and no other form of payment will be issued. Payments will only be delivered by U.S. Mail; no other method of delivery will be permitted. Contractor consents to the foregoing payment schedule and will make adequate arrangements to accommodate the Airport's pay schedule. Contractor shall not request payment before the expiration of this 45-day period and will not contact the airport, its representatives, or Board Members to inquire about the status of payments or otherwise expedite the foregoing pay schedule.

Prompt Payment.

Contractor must pay its Consultants and suppliers all amounts due no later than seven (7) days from receipt of each payment made to Contractor by Airport (unless Contractor has a bona fide dispute with either, less any undisputed portion of the invoice). Contractor shall submit with each invoice a certification that all Consultants and suppliers have been paid for accepted work and materials from previous progress payments received. During the term of the Agreement and upon completion of the Agreement, Airport may request documentation to verify payment to Consultants, sub-Consultants or suppliers. This provision in no way creates any relationship between any Contractor or supplier and the Airport or any liability on the Airport for Consultant's failure to make timely payment to same. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause, following written approval of the Airport.

4. **Required Federal Contract Provisions.** The Consultant agrees to comply with the Required Federal Contract Provisions attached to the original Agreement as Exhibit A.
5. **Convicted Felon Statement.** The Contractor swears that it complies with City Code § 2-8(c). No Contractor principal, member, or officer 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.
6. **Non-Solicitation Statement.** The Contractor swears that it has not employed or retained any company or person, to solicit or secure this Amendment other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor. The Contractor has not paid or agreed to pay any person, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor.
7. **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:
- i. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“Living Wage”);
 - ii. 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
 - iii. 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.

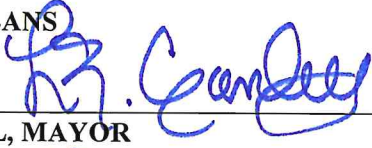
- h. ***Remedies.*** If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.
8. ***Prior Terms Binding.*** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.
9. ***Counterparts.*** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Amendment, but all of which, when taken together, shall constitute one and the same agreement.
10. ***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.

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[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the Airport and the Contractor, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

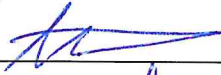
BY: 

LATOYA CANTRELL, MAYOR

Executed on this 22nd of October, 2020

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Andrew Gregorich

[BOARD SIGNATURES CONTAINED ON NEXT PAGE]

Approved by resolution of the New Orleans Aviation Board dated **April 16, 2020** and directing the Chairman and Director of Aviation to execute the same:

NEW ORLEANS AVIATION BOARD

By: Michael Bagneris 8/31/2020
Hon. Michael G. Bagneris, Chairman Date
New Orleans Aviation Board

By: Kevin Dolliole 8-26-2020
Kevin Dolliole, Director of Aviation Date
New Orleans Aviation Board

Reviewed as to form and legality:

By: Michele Allen-Hart 8/26/2020
Michele Allen-Hart Date
General Counsel and Deputy Director of Legal Affairs
New Orleans Aviation Board

[CONTRACTOR SIGNATURE CONTAINED ON NEXT PAGE]

Hi-Lite Airfield Services, LLC

BY: 
Kelly Spinner, Vice President of Finance


FEDERAL TAX I.D. OR SOCIAL SECURITY NO.

