

K20-745

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN

THE CITY OF NEW ORLEANS

AND

WOODWARD DESIGN + BUILD, LLC

THIS FIRST AMENDMENT is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Woodward Design + Build, LLC, represented by Donald F. Fant, Director of Design (the “**Consultant**”). The City and the Consultant are sometimes collectively referred to as the “**Parties**.” The Amendment is effective as of the date of execution by the City (the “**Effective Date**”).

RECITALS

WHEREAS, on January 8, 2020, the City and the Consultant entered into a Professional Services Agreement for Consultant to test the results of the City Facility Programmatic Study on the Municipal Auditorium site, referred to as the City Facility Programmatic Study Test/Municipal Auditorium project (the “**Agreement**”); and

WHEREAS, the City and the Consultant, each having the authority to do so, desire to enter this Amendment to increase the compensation under the Agreement.

NOW THEREFORE, for good and valuable consideration, the City and the Consultant amend the Agreement as follows:

1. **Compensation.** The compensation described in Article IV(B) of the Agreement is increased by \$36,193.00, from \$263,136.00 to a total amount not to exceed \$299,329.00. The increase is provided as follows:

- | | |
|--|-------------|
| • Revised Traffic Study for Municipal Auditorium Site Analysis | \$12,193.00 |
| • Revised Block & Stack for Municipal Auditorium Site Analysis | \$22,000.00 |
| • Additional Reimbursable Expense Allocation | \$2,000.00 |

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

Invoices.

1. The Consultant must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include, at a minimum, the following information:

- a. Name of Consultant;
- b. Date of Invoice;
- c. Invoice Number;
- d. Contract or Purchase Order Number issued by the City (i.e. K#);
- e. Name of the City Department to be invoiced (i.e. City Civil Service);

- f. Description of the Services completed;
 - g. An authorized signature under penalty of perjury attesting to the validity and accuracy of the invoice.
- 2. Invoices will be processed in accordance with Article III(B) of the Agreement.
- 3. All invoices must be signed by an authorized representative of the Consultant under penalty of perjury attesting to the validity and accuracy of the invoice.
- 4. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

Payment.

Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed (if required), rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City's supplier portal.

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 Consultant shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Consultant fails to meet its contractual obligations.

Further provided that Article VII of the Agreement is hereby removed and replaced with the following:

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 Consultant 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

Consultant 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 Consultant 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 Consultant, 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 Consultant 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 Consultant 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 Consultant 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 Consultant, payroll records and employee paychecks; and (iii) that the City may audit such records of the Consultant as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. *Remedies.* If the Consultant 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.

3. **Convicted Felon Statement.** The Consultant swears that it complies with City Code § 2-8(c). No Consultant 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.

4. **Non-Solicitation Statement.** The Consultant swears that it 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 Consultant 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.

5. **Prior Terms Binding.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.

6. **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.

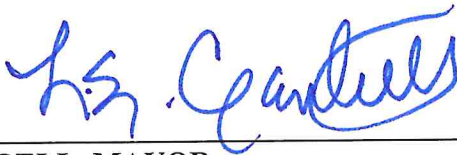
7. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original 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 NEXT PAGE]

[The remainder of this page is intentionally left blank.]

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

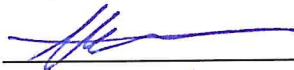
CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 6TH of AUGUST, 2020

FORM AND LEGALITY APPROVED:

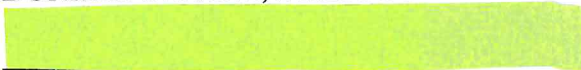
Law Department

By: 

Printed Name: Andrew Gregorian

WOODWARD DESIGN + BUILD, LLC

BY: 
DONALD F. FANT, DIRECTOR OF DESIGN


FEDERAL TAX I.D.