

K23-449

AMENDMENT NO. ONE TO COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

CAPITAL AREA CORPORATE RECYCLING COUNCIL

ELECTRONIC WASTE REMOVAL AND RECYCLING SERVICES

THIS FIRST AMENDMENT TO THE COOPERATIVE ENDEAVOR AGREEMENT (the “**Amendment**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Capital Area Corporate Recycling Council, represented by Shannon Fish Fertitta, Executive Director (the “**CACRC**”). The City and CACRC may sometimes each be referred to as a “**Party**” or collectively as the “**Parties**.” The City and CACRC may sometimes each be referred to as a “**Contractor**” or collectively as the “**Contractors**.” The Amendment is effective as of **May 6, 2023** (the “**Effective Date**”).

RECITALS

WHEREAS, on and effective May 6, 2022, the City and the Contractor entered into a Cooperative Endeavor Agreement for the City to provide electronic waste removal and recycling services for the citizens of New Orleans, reducing the City’s dumping fees, reducing electronic waste in City landfills, and providing greater access to technology (the “**Agreement**”); and

WHEREAS, the City and the Contractor, each having the authority to do so, desire to enter this Amendment to extend the term of the Agreement for an additional one-year period and to reaffirm the terms and conditions of the Agreement.

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

1. **Extension**. In accordance with Article III Section A, this Agreement is amended for an additional one (1) year from the Effective Date through **May 5, 2024**.

2. **Additional Miscellaneous Provisions**. The following terms and conditions are added and/or reaffirmed in the Agreement:

ARTICLE XIV – FORCE MAJEURE

A. **Event**. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or

pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended.

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Contractor and without any further compensation due.
2. Notwithstanding Section C (1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

Article XIII Section G – Convicted Felon Statement

Convicted Felon Statement. The Contractor swears that it complies with City Code Section 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.

Article XIII Section N – Non-Solicitation Statement

Non-Solicitation Statement. The Contractor 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 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 Amendment.

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

4. **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.

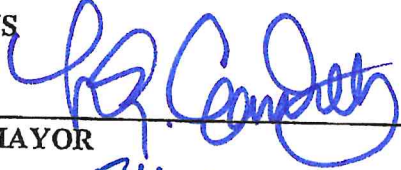
5. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original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

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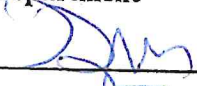
IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized representatives, execute this Amendment.

CITY OF NEW ORLEANS

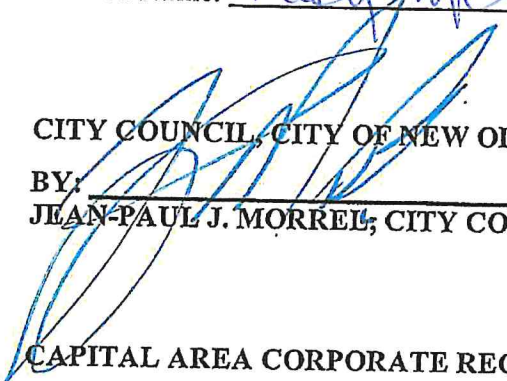
BY: 
LATOYA CANTRELL, MAYOR

Executed on this 8th of July, 2023

FORM AND LEGALITY APPROVED:
Law Department

By: 
Printed Name: Tady Tyn

CITY COUNCIL, CITY OF NEW ORLEANS

BY: 
JEAN-PAUL J. MORREL, CITY COUNCIL PRESIDENT

CAPITAL AREA CORPORATE RECYCLING COUNCIL

BY: _____
SHANNON FISH FERTITTA, EXECUTIVE DIRECTOR

FEDERAL TAX I.D.

[END OF AMENDMENT]

IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized representatives, execute this Amendment.

CITY OF NEW ORLEANS

BY: _____
LATOYA CANTRELL, MAYOR

Executed on this _____ of _____, 2023.

FORM AND LEGALITY APPROVED:
Law Department

By: _____

Printed Name: _____

CITY COUNCIL, CITY OF NEW ORLEANS

BY: _____
JEAN-PAUL J. MORREL, CITY COUNCIL PRESIDENT

CAPITAL AREA CORPORATE RECYCLING COUNCIL

BY: Shannon Fish Fertitta
SHANNON FISH FERTITTA, EXECUTIVE DIRECTOR

FEDERAL TAX I.D.

[END OF AMENDMENT]