

COOPERATIVE ENDEAVOR AGREEMENT
BETWEEN
THE CITY OF NEW ORLEANS
AND
CAPITAL AREA CORPORATE RECYCLING COUNCIL
Electronic Waste Disposal

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 Capital Area Corporate Recycling Council, represented by Shannon Fish Fertitta, Executive Director (“Contractor” or the “CACRC”), which are sometimes each referred to in this Agreement as a “Party,” and collectively, as the “Parties.” This Agreement is effective as of the date of execution by the City (the “Effective Date”).

RECITALS

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

WHEREAS, the CACRC is a Louisiana non-profit corporation, which principal address is located at 1400 Main Street, Baton Rouge, LA 70802;

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 CACRC desire to accomplish the valuable public purpose of providing 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;

WHEREAS, the CACRC will accept unwanted electronic equipment to recycle and repair for low-income residents; and

WHEREAS, to that end, the City and CACRC offer access to a Recycling Drop-Off Center, whereby citizens may drop off their unwanted, obsolete electronic equipment.

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

ARTICLE I – OBLIGATIONS OF THE PARTIES

A. *Obligations of the CACRC.* The CACRC shall:

1. Provide the City with a list of electronic devices accepted by CACRC and provide at least thirty (30) days' notice of any changes to the types of equipment accepted by the Contractor. In general, the Contractor will accept: iPads, Tablets, Laptops, LCD Monitors, Processors, small printers, keyboards, mice, speakers, cables, inject/toner cartridges, Telephones, Telephone Systems and cables, Cell phones/bag phones, Security Systems, Gaming consoles (X-boxes, PlayStations, Wii), Video games, MP3/DVD/CD Players, Digital Cameras/Digital Video Recorders (DVRs), Stereos, Networking Equipment, Fax machines, Circuit Boards, Uninterruptible Power Supplies (UPS), and Portable Navigation and GPS Devices;
2. Inspect and approve the collection site and storage process to be utilized;
3. Provide ongoing training at the City's Elysian Fields Recycling Center to the persons designated by the City. The training will include but not be limited to: acceptable materials to collect, materials which should not be collected, the proper shrink wrapping of items, and the proper storage and transporting of items collected;
4. Pick-up collected electronic items from the City's approved collection site(s) at a date and time which will be scheduled and mutually agreed upon by both parties;
5. Utilize a truck with an automatic lift gate for the pick-up of items collected by the City;
6. Transport all items collected by the City to CACRC's Baton Rouge facility;
7. Recycle and repair materials via R2 RIOS standards;
8. Erase all hard drives pursuant to top national standards; and
9. Warrant that no regulatory permits are needed by the City to collect these items on behalf of the CACRC.

B. *Obligations of the City.* The City shall:

1. Provide pre-approved locations for storage of items to be picked up by the CACRC;
2. Provide individuals to be trained to accept electronic waste from the public;
3. Ensure only items on the approved list from the CACRC are stored in the designated areas for collection by the CACRC;
4. Provide wooden pallets, Gaylord Boxes and shrink wrap, as needed;
5. Organize large items on wooden pallets and bind them with shrink wrap for pick up by the CACRC;
6. Place small items in Gaylord Boxes for pick up by the CACRC;
7. Assist with the loading of the items onto the CACRC collection truck;
8. Host regular collection events at ~~dates~~ and times which will be scheduled and mutually

agreed upon by both parties; and

9. Initiate advertising and promotion of the partnership between the City and the CACRC to the public, at the City's sole cost and expense. Included in the advertising will be: the items accepted by the CACRC, any volume limits and the notation that the collection service is provided free of charge, as a community service in conjunction with the City.

ARTICLE II – FUNDING AND COMPENSATION

A. **Maximum Amount.** The maximum amount payable to CACRC by the City under this Agreement is \$0.

B. The City will not compensate the CACRC for services performed pursuant to this CEA. The City's obligation, financial or otherwise, are fully defined above in Article I, Section B, entitled "Obligations of the City."

ARTICLE III – DURATION AND TERMINATION

A. **Term.** This Agreement shall be effective for one (1) year from the Effective Date.

B. **Termination for Convenience.** The City may terminate this Agreement at any time during the term of the Agreement by giving the CACRC written notice of its intention to terminate at least thirty (30) days before the intended date of termination.

C. **Termination for Cause.** Either party may terminate this Agreement immediately for cause. If either party prevails in a challenge to a termination for cause, the termination for cause will be deemed to be a termination for convenience effective thirty (30) days from the date that the original written notice of termination for cause without the requirement of notice.

ARTICLE IV – 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 V - INSURANCE

A. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the CACRC will maintain the following insurance in full force and effect for the duration of the work under this Agreement. If CACRC maintains broader coverage and/or higher limits than the minimums shown below, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by CACRC. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

a. Minimum Requirements:

- i.** Workers' Compensation & Employers Liability Insurance in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$1,000,000.
- ii.** Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, abuse and molestation, and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.
- iii.** Automobile Liability Insurance with a combined single limit of liability of not less than \$1,000,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.
- iv.** Cyber Liability - Minimum limits of \$1,000,000 for third party losses including, but not limited to: Data Privacy and Network Security Liability, Internet and Communications Liability, Professional Services Liability, Programming Errors & Omissions Liability, Replacement or Restoration of Electronic Data., and Credit Monitoring Expense.
- v.** Umbrella/Excess Liability – Umbrella/Excess policies must Follow Form of the underlying policies. CACRC and Comp-U-Dopt shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.

b. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- i. Additional Insured Status.** The 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

- a. Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;
- b. 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
- c. 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.

D. Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

ARTICLE VI - PERFORMANCE MEASURES

A. Factors. The City will measure the performance of the CACRC according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

B. Failure to Perform. If the CACRC fails to perform according to the Agreement, the City will notify the CACRC. If there is a continued lack of performance after notification, the City may declare the CACRC in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting contractor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting contractor.

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. **Living Wage.** In accordance with the Living Wage Ordinance, Living Wage shall be as follows:

1. \$11.19 per hour for any work performed on or before December 31, 2021;
2. \$13.25 per hour for any work performed on or before December 31, 2022;
3. \$15.00 per hour for any work performed on or before December 31, 2023; and
4. \$15.00 per hour plus any adjustment provided in subsection D below for any work performed during calendar year 2024 or thereafter.

D. **Adjusted Living Wage.** In accordance with Section 70-806(2) of the City Code, the Living Wage shall be annually adjusted for inflation, as defined by the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics as applied to the South Region, except that in no instance shall the Living Wage be adjusted downward. The first adjustment shall become effective on January 1, 2024 using the Consumer Price Index figures provided for 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 - 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 Consultant 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 the 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 IX - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the CACRC (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the CACRC's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national

origin, sexual orientation, gender identity, 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, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

B. *Non-Discrimination.* In the performance of this Agreement, the CACRC 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 CACRC in any of CACRC'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 Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI 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 CACRC 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 CACRC fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE X - INDEPENDENT CONTRACTOR

A. *Independent Contractor Status.* The CACRC 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 CACRC, as an independent contractor as defined in La. R.S. 23:1021(7), 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 CACRC will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. *Exclusion of Unemployment Compensation Coverage.* The CACRC, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(12)(E) and neither the CACRC 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 CACRC 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 CACRC are outside the normal course and scope of the City's usual business; and (c) the CACRC has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. *Waiver of Benefits.* The CACRC, 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 XI - 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:

Matt Torri, Director
Department of Sanitation
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

&

Donesia D. Turner, City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the CACRC:

Shannon Fish Fertitta, Executive
Director, CACRC
1400 Main Street
Baton Rouge, LA 70802

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 XII - 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 the CACRC's interest in it are not assignable or transferable without the City's prior written consent.

C. Audit and Other Oversight. The CACRC will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the CACRC 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 CACRC 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. Compliance with the City's Hiring Requirements – Ban the Box. (i) The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Contract, Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary. (ii) Failure to maintain compliance with the City's hiring requirements throughout the term of the Contract, or to provide sufficient written reasons for deviation, is a material breach of this Contract. Upon learning of any such breach, the City will provide the Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to Contractor, void the Contract, or take any such legal action permitted by law or this Contract. (iii) This section will not apply to any Contracts excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable, and the remaining provisions of the Contract will remain in full force and effect. (iv) The Contractor 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.

E. Conflicting Employment. To ensure that the CACRC's efforts do not conflict with the City's interests, and in recognition of the CACRC's obligations to the City, the CACRC 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 CACRC 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 CACRC's performance of this Agreement. The City will make the final determination whether the Contractor may accept the other employment.

F. 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 CACRC 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.

G. 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 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.

H. Employee Verification. The CACRC 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 CACRC 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 CACRC being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The CACRC 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 CACRC 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 CACRC fails to provide such the requested affidavit or violates any provision of this paragraph.

I. 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.

J. Jurisdiction. The CACRC 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 CACRC.

K. 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.

L. 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.

M. Non-Exclusivity. This Agreement is non-exclusive and the CACRC may provide services to other clients, subject to the City's approval of any potential conflicts with the performance of this Agreement and the City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

N. 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.

O. 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.

P. Ownership Interest Disclosure. The CACRC will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in the CACRC and stating that no other person holds an ownership interest in the CACRC 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 CACRC fails to submit the required affidavit, the City may, after 30 days' written notice to the CACRC, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

Q. Ownership of Records. Upon final payment, all data collected and all products of work prepared, created or modified by the CACRC 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, but excluding the CACRC's personnel and administrative records and any tools, systems, and information used by the CACRC to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (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. No Work Product 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 CACRC's consent and for no additional consideration to the CACRC.

R. 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 CACRC, 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 CACRC pursuant to this Agreement without regard to the CACRC's otherwise satisfactory performance of the Agreement.

S. 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.

T. 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.

U. 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.

V. **Subcontractor Reporting.** The CACRC will provide a list of all natural or artificial persons who are retained by the CACRC at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with the CACRC's work for the City. For any subcontractor proposed to be retained by the CACRC to perform work on the Agreement with the City, the CACRC must provide notice to the City within 30 days of retaining that subcontractor. If the CACRC fails to submit the required lists and notices, the City may, after thirty 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.

W. **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.

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

ARTICLE XIII - ELECTRONIC SIGNATURE AND DELIVERY

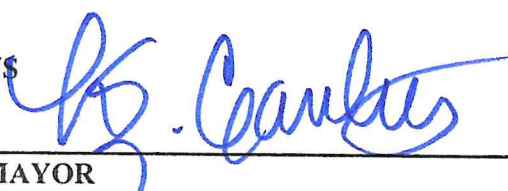
The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to 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 CACRC, through their duly authorized representatives, execute this Agreement.

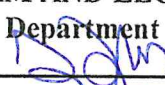
CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 6th of May, 2022

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Tracy Tyler

CAPITAL AREA CORPORATE RECYCLING COUNCIL

BY: 
SHANNON FISH FERTITTA, EXECUTIVE DIRECTOR


TAX I.D.

[END OF AGREEMENT]