K21-1047

COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

NOLA BUSINESS ALLIANCE

THIS COOPERATIVE ENDEAVOR AGREEMENT ("**Agreement**") is made and entered into by and between the City of New Orleans (the "**City**"), herein represented by Mayor LaToya Cantrell, hereunto duly authorized and the NOLA Business Alliance ("**NOLABA**" or the "**Contractor**"), herein represented by Norman E. Barnum, IV, Interim President and Chief Executive Officer, hereunto duly authorized, to be effective as of the date of execution by the City ("**Effective Date**"). Each may be individually identified in the Agreement as "**Party**" or together as "**Parties**."

RECITALS

WHEREAS, the City is a local government subdivision of the State of Louisiana;

WHEREAS, NOLABA is a non-profit corporation organized under the laws of the State of Louisiana;

WHEREAS, the City, in conjunction with leaders from the business, non-profit, and government sectors and with technical assistance from national economic development professionals, has undertaken a review and evaluation of economic development best practices;

WHEREAS, the City, in conjunction with leaders from the business, non-profit, and government sectors and with technical assistance from national economic development professionals, has concluded that, consistent with best practices in other jurisdictions, many of the City's economic development functions should be conducted by a public-private partnership led by a diverse, highly qualified group of leaders from the business, non-profit, and government sectors and funded by both the public and private sectors; whereas certain other economic-development related functions must continue to be conducted by the City;

WHEREAS, NOLABA is led by a diverse, highly qualified Board of Directors nominated by both the private and public sectors;

WHEREAS, NOLABA operates a business- and citizen-friendly organization, and agrees to perform the services described herein with open communication, access to information and to secure funding from the private sector, and to leverage the financial contributions of the public sector;

WHEREAS, NOLABA can offer the City and its businesses and citizens a new business model for economic development that fully integrates business growth and attraction, connects job creators and job candidates, and prioritizes small business development strategies;

WHEREAS, pursuant to the authority contained in Article 7, Section 14 (C) of the Louisiana Constitution of 1974, and statutory authority supplemental thereto, the State of Louisiana and its political subdivisions, including the City, may enter into cooperative endeavors with each other, or with any public or private corporation or individual; and further, pursuant to Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with any public or private association, corporation or individual for activities in support of economic growth and other public purposes;

WHEREAS, the City and NOLABA desire to accomplish a valuable public purpose of supporting economic and community development; and

WHEREAS, each Party agrees and acknowledges that the City has a demonstrable, objective, and reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred by the City.

NOW, THEREFORE, the City and NOLABA agree as follows:

ARTICLE I -SERVICES AND OBLIGATIONS OF THE PARTIES

Section 1. Services to Be Performed by NOLABA. NOLABA shall perform each of the services as set forth in this Article (collectively, the "Services"):

A. **Economic Development:**

1. **Place-Based and Catalytic Economic Development:**

   a. Develop, support, and implement strategies for driving business development, job creation, and wealth-building opportunities throughout New Orleans, including redeveloping key publicly owned sites.

      i. Partner on and implement commercial corridor revitalization efforts, including small business support, retail attraction in priority neighborhoods, and identifying and supporting the utilization of state and local incentives to support corridor and district development;

      ii. Collaborate on district- and geography-based efforts to create proactive economic development initiatives, including the creation of an Economic Development District ("**EDD**") and Tax Incremental Financing ("**TIF**") framework (individually or collectively referred to hereinafter as "**Districts**"), and building capacity, upon the mutual agreement of the Parties, in the respective districts to utilize their tools and powers, including the potential for NOLABA to provide capacity and support for such Districts on a fee or other contractual basis;

iii. Utilize small business ecosystem resources to connect businesses with technical and financial assistance providers;

iv. Maintain relationships with site selection representatives, maintain inventory of suitable sites for commercial and industrial development, respond to solicitations from Louisiana Economic Development ("**LED**") and others; and

v. Support the City's efforts to create large-scale, transformative economic development projects on publicly controlled assets, including commissioning professional services, attracting tenants in priority industries, and supporting the utilization of incentives.

2. **Priority Industry Development:** NOLABA will assist in leading efforts to prioritize and cultivate investment, business development and job growth in core and priority industries. Core industries include Tourism and Hospitality; Trade and Logistics; Energy; and the Cultural Economy. Priority industries include: Water and Sustainability; Film; Music; Food; Advanced Manufacturing; Bioinnovation and Life Sciences; and Technology and Digital Media.

   a. Continuous proactive environmental scan for potential opportunities, serve as initial point of contact, develop pitch/presentation decks, initiate negotiations, identify state and local incentives, and undertake other programs and initiatives to support business attractions;

   b. Assist in the development of strategies and plans for fostering growth in each priority industry, including identifying specific opportunities and gaps in industries, and researching best practices;

   c. Lead Attraction, Expansion, and Retention Efforts:

      i. Employ dedicated economic development professionals to lead attraction, expansion, and retention efforts for core and priority industries;

      ii. Provide logistical support for site visits;

      iii. Identify and engage prospective new businesses and negotiate with them to attract them to locate in New Orleans, working in conjunction with the State of Louisiana, the regional economic development organization, and the City;

      iv. Track corporate relocation leads, prospects, and projects; and

v. Promote local economic development incentives and place-based assets to grow industries and attract new businesses to the City.

d. Develop and implement strategies, programs, and practices to engage existing businesses to retain them and to help them to expand, working with the City as appropriate to ensure the effectiveness of said programs;

e. Administer the Business Attraction, Expansion, and Retention Fund;

f. Convene business and industry leadership in each of the priority industries;

g. Support entrepreneurship and the entrepreneurship support organizations in the City;

h. Assist start-up businesses by connecting them with resources available in the New Orleans area, including:

i. Making connections to business incubator and accelerator space;

ii. Facilitating access to entrepreneurship counseling and mentoring services;

iii. Facilitating connection with early-stage capital outlets, including but not limited to angel investor groups and/or venture capital providers;

iv. Publishing an up-to-date guide detailing startup resources at the state and local levels; and

v. Expanding and coordinating the local small business ecosystem, including convening financial institutions to design and make available new financing products for start-up, small and disadvantaged businesses.

i. Support the growth of small and disadvantaged businesses, including:

i. Convening and maintaining an ecosystem of technical assistance and training providers, as well as financial institutions;

ii. Coordinating and/or implementing training sessions for public and private sector opportunities; and

iii. Convening anchor institutions and private sector companies and publicizing Equitable Businesses Opportunities ("**EBO**" or "**EBOs**", formerly known as the City's Disadvantaged Business Enterprise or DBE program) and small business opportunities.

3. **Business Services:** Support City programs for small-businesses and connect and/or supply businesses located in the City with available resources, information, and assistance:

   a. Support the development of a Business Services Office at the City, and the development of a "concierge"-type business service model;

   b. Use and provide updated market, trend, and demographic analyses;

   c. Provide data on key business factors, including regional, labor, education and real estate data;

   d. Facilitate customized talent solutions for area companies through referrals and connections to area community and technical colleges, nonprofits, and other training entities that can provide employee upskilling and other staff instruction;

4. **International Business Development:** Serve as a liaison between New Orleans and international business prospects and explore opportunities to fund increased investment. Collaborate with City and other parties focusing on international economic development to attract and promote tools that result in foreign direct investment into New Orleans.

5. **City Branding and Marketing:** Support the development and implementation of a strategy to market New Orleans as an opportunity for business growth and development, working in concert with the State of Louisiana, the regional economic development organization, and the City, as well as with other entities, to leverage effectiveness and efficiencies.

   a. NOLABA shall maintain an active NOLABA-branded website with updated content about the benefits of living and working in New Orleans.

6. **Fundraising:** In partnership with the City, seek private, public, and philanthropic organizations to secure additional funding for economic development in New Orleans.

   a. For any funds previously raised to support the New Orleans Workforce Development System in conjunction with the Office of Workforce Development ("**OWD**"), or that leverages Workforce Innovation and Opportunity Act ("**WIOA**") or other United States Department of Labor ("**USDOL**") funds, NOLABA must report to the Deputy CAO of the Office of Business and External Services, the Office of Workforce Development, and the Workforce Development Board, as follows, which shall be in addition to any other reporting requirements contained herein:

i. Quarterly financial and performance reports related to these funds, including forecast and actual jobs created or retained.

B. **Talent Solutions:** In partnership with the City, NOLABA will continue to support efforts to align and integrate economic development and talent solutions. All NOLABA talent solution initiatives will relate to Attraction, Expansion, and Retention and must be approved by the City. NOLABA will focus its efforts on Talent Solutions (e.g., cultivating the external 'talent pipeline' for priority industries and large employers, and developing tailored, demand-driven pipelines with large employers) and these efforts must be aligned with the initiatives of OWD as determined by a standard of reasonableness in the best practices of economic development as presented by the International Economic Development Council. This includes working closely with leadership in the private sector and higher education (including Career and Technical College System ("**CTCS**") and the universities), the Office of Economic Development, and other entities to support the creation of an external talent pipelines to fill gaps in local capacity.

1. **External Talent Attraction:**

a. NOLABA will facilitate customized talent solutions for area companies, growth industries, and strategic sectors and populations through customizable programs like Boost and Get Shift Done, and initiatives like 504ward connecting talent solutions to business attraction and retention.

b. NOLABA will research and identify best practices and identify models for replication and innovation.

2. **Other Functions:**

a. NOLABA will work to identify all reasonable opportunities to include the City within NOLABA's grant applications, as appropriate. This will be done with the goal of ensuring that the City and NOLABA are able to maximize the potential award amount received and make award funds available for use for the benefit of New Orleans residents.

b. NOLABA will make efforts to support the Business Industry Council of the New Orleans Workforce Development Board ("**WDB**").

c. The WDB Board Chair will retain an ex officio board member of seat on the NOLABA Board in her/his capacity as WDB Board Chair. However, nothing in this provision, prevents the board of directors of the NOLABA board from recommending to the University Presidents Advisory Council that the WDB Board Chair become a member of the NOLABA board in her/his individual capacity after her/his tenure as WDB Board Chair has concluded.

C. **Systems for Economic Development:** NOLABA will help lead systems-change efforts that will grow the City's and partners' capacity and drive equitable economic development and economic mobility outcomes. NOLABA will also work to ensure that New Orleans stays at the forefront of business trends and best practices. NOLABA is a key agency in helping the City achieve its vision of delivering a concierge level of customer service to all businesses.

1. Business Toolbox: NOLABA shall support and offer a robust suite of tools appropriate across the business life cycle including:

   a. a Business Insight Tool to support better data driven decision-making;

   b. Crescent City Biz Connector to facilitate networking and affinity group connections;

   c. Opportunities Portal to identify procurement opportunities for both public and private sector contracts; and

   d. InvestNOLA to support opportunities to scale Black Indigenous and People of Color ("**BIPOC**") -owned business with high growth potential.

2. NOLABA will be a key partner with the City's Business Services Office, which will help businesses navigate internal and external resources to support businesses.

3. Access to Capital: NOLABA will help lead efforts to grow access to capital and financial assistance for businesses and lending institutions. Through partnerships with philanthropy, NOLABA played a significant role in the establishment of the BuildNOLA Mobilization Fund, a revolving loan fund that provides bridge financing to EBO program participants participating in City-funded contracts. NOLABA will continue to engage a consortium of the four locally operating Community Development Financial Institutions ("**CDFI**") to better align and leverage existing capital and technical assistance resources and identify new sources of capital for small business lending.

4. Fundraiser & Capacity-Builder: NOLABA will capitalize on its relationships and strong reputation within the local and national philanthropic community to identify funding opportunities that support the Administration's initiatives in the area of economic development as stated in the Recitals of this Agreement.

5. Laboratory for Innovation: Related to their ability to attract philanthropic and private sector funds, NOLABA will continue to pilot initiatives to prove a model that can then be taken to scale. Previous examples include, but are not limited to, STRIVE, Youth Demonstration Project, Getting Shift Done, and the Gig Economy Relief Fund.

6. Procurement Council: NOLABA has convened some of the city's largest private and non-profit sector organizations to identify ways that they can use their purchasing power to advance procurement opportunities for small and minority-owned businesses. While the City has its own established EBO program participation goals for public sector contracts, this initiative seeks to expand goals to additional opportunities in the private sector (e.g., the Mayor's 2-20 Initiative that seeks to expand receipts by EBO from 2% to 20% in the City, where the Office of Supplier Diversity and others are partners in this work).

7. Policy and Advocacy: Actively engage in campaigns to educate local, state, and national policymakers about issues impacting their communities.

D. General Requirements for the work performed by NOLABA under this Agreement:

1. NOLABA must adopt good governance practices, consistent with best practices among non-profit economic development organizations, including but not limited to conflict-of-interest policies, internal financial controls, and preparation of an annual audit by a certified public accountant.

2. NOLABA must report to the City, as follows, which shall be in addition to any other reporting requirements contained herein:

    a. Quarterly financial and performance reports to be provided to the Mayor. These quarterly financial and performance reports must include data related to services provided, as well as performance measures established by the City, which may include the following:

        i. Place-based economic development in City-designated commercial corridors and economic development districts, including: (1) Number of small businesses served in corridors and districts, (2) Amount of additional investment in small businesses in corridors and districts, (3) Amount of new development in corridors and districts, (4) Number of jobs created in corridors and districts, (5) Percent change in sales and property tax revenues in corridors and districts, and (6) Percent change in quality of life indicators.

        ii. Catalytic development for City-designated catalytic sites, including: (1) Number of sites developed, (2) Amount of investment in sites, (3) Number of jobs created on sites, (4) Number of affordable housing units created on sites, (5) Percent change in sales and property tax revenues attributable to site development, and (6) Percent change in quality of life indicators attributable to site development.

iii. Priority industry development, including (1) Number of businesses served, (2) Amount of investment in businesses, (3) Number of businesses attracted or retained, and (4) Number of jobs created or retained.

iv. Fundraising, including (1) Funds raised for businesses in City priority industries, (2) Funds raised for small businesses in City-designated corridors or districts, (3) Funds raised for women entrepreneurs and entrepreneurs of color, (4) Funds raised for redevelopment of City-designated catalytic sites;

b. An annual report including audited financial statements to be provided to the Mayor and City Council; and

c. An annual public presentation by the New Orleans by NOLABA Board Chair or President to the City Council, or Council Committee, as directed by the Council, regarding NOLABA's performance under this Agreement;

d. NOLABA must actively participate in performance management activities with the City, including attending monthly meetings to review performance data and monthly meetings to review policies and procedures;

e. NOLABA must establish a strong financial management system that carefully tracks spending from multiple funding sources and complies with various guidelines regarding use of funds.

f. NOLABA must comply with any and all audit requirements of the federal, state, or local government, specifically including but not limited to audits required as a condition for the receipt of federal grant funds.

g. The City may require changes to the form of the reports and may require additional supporting documentation to be submitted with reports.

Section 2. Functions Retained by the City.

A. Retained functions. The City retains full responsibility for establishing economic and workforce development policy and programs for the City, as well as the incentives, neighborhood services, international protocol, housing and historic preservation regulation, the EBO program management, and oversight of the performance of the WDB and WIOA-funded activities, among other things, including any activities not specifically delegated to NOLABA herein.

B. Business and Industry Growth:

1. Set policy priorities to inform dispensation and award of local incentives (e.g., local hiring, EBO participation, housing affordability);

2. Retain final approval of Restoration Tax Abatement and Industrial Tax Exemption decisions;

3. Make final recommendations to the Industrial Development Board ("**IDB**") to inform award of payment-in-lieu-of-taxes incentives;

4. Provide staff liaison to NOLABA;

5. Recruit existing and emerging EBOs;

6. Raise awareness about small business development services available through local capacity-building partners;

7. Host outreach and matchmaking events to connect private sector developers to local small businesses to maximize EBO participation on tax credit projects;

8. Monitor compliance on tax credit projects;

9. Coordinate EBO certification and compliance practices with the New Orleans Aviation Board, Sewerage and Water Board of New Orleans, the Board of Commissioners of the Port of New Orleans, the Regional Transit Authority, and the Housing Authority of New Orleans;

10. Identify public-sector capacity-building needs and strategies; and

11. Coordinate training, technical assistance and finance strategies for public sector opportunities.

Section 3. Financial Partnership.

A. **Shared Responsibility**. The City and NOLABA agree to jointly fund the cooperative endeavor described in this Agreement, as follows: As compensation for the Services described herein, the City will pay NOLABA ONE MILLION AND NO/100 ($1,000,000.00) DOLLARS in two separate payments from either the City's Economic Development Fund or other sources of funding.

B. **Maximum Amount**. The maximum annual amount payable by the City under this Agreement is ONE MILLION AND 00/100 ($1,000,000.00).

C. NOLABA agrees to privately raise from local, corporate, and/or national philanthropic sources and cause to be contributed to it a minimum of four hundred thousand AND NO/100 ($400,000.00) DOLLARS to support the operational and administrative functions of NOLABA. Recognizing that this endeavor is a true partnership, the City and NOLABA expressly acknowledge and agree that each Party's obligation to provide funding for this endeavor is contingent on the other Party's performance of its obligation(s). Both Parties will work to explore best practices for NOLABA to generate its own income and become more self-sustaining over time, with the intention of reducing the City's funding commitment in the future. The City will use good-faith efforts to provide one-half of its contribution ($500,000.00) reasonably promptly, but no sooner than forty-five (45) days following the Effective Date of this Agreement and NET 30 following NOLABA's submission of an electronic invoice in the City's new ERP system ("**BRASS**"). To submit an electronic invoice, NOLABA must first register as a vendor in the City's supplier portal before submitting the invoice through BRASS. NOLABA will be able to invoice the City for the remaining one-half ($500,000.00) no sooner than one hundred eighty (180) days after the first payment. Federal subgrant funds will be disbursed on a cost-reimbursement basis.

D. **Disclosure of Sources of Funds.** Upon request, NOLABA agrees to provide to the City a list of the sources of any and all funds provided to NOLABA for any purpose. Such list shall include the full names and addresses of each such person or entity providing funds and the amount of each such contribution.

E. **Annual Independent Audit.** NOLABA agrees to secure and publish an independent audit for each year that it operates under this Agreement.

F. **Budget.** NOLABA shall present its proposed budget for the remaining term of this Agreement during the City Council's annual budget hearings. NOLABA understands and acknowledges that the City funds provided shall be used exclusively for the purpose described above in this Agreement and in keeping with the approved budget and shall not be used to cover any other expense of NOLABA.

G. **Compensation Subject to Appropriation.** All funding from the City to NOLABA pursuant to this Agreement is contingent upon the availability of funds and the appropriation thereof.

H. **No Payment for Services Beyond Scope of Agreement.** Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request NOLABA to provide additional services that would result in the performance of services beyond the scope set forth in Article I, unless this Agreement has been amended in accordance with the terms of this Agreement to authorize such additional services and/or expenditures. The City shall not be required to reimburse NOLABA for any services that are provided by NOLABA that are beyond the scope of this Agreement, in the absence of a duly authorized executed amendment hereto.

I. **No Payments in Excess of Maximum Compensation.** Officers and employees of the City are not authorized to offer or promise to NOLABA additional funding for the contract in excess of the maximum amount of funding set forth above. Additional funding for services will not be provided under this Agreement, unless this Agreement has been amended in accordance with the terms of this Agreement to authorize such increase and the Department of Finance has certified the availability of such additional funding. Absent the prior duly authorized amendment of this Agreement and the necessary certification of the Department of Finance, the City shall not be required to honor and will not remit to NOLABA any offered or promised additional funding for any of the Services performed pursuant to this Agreement in excess of the maximum amount set forth above.

J. **Grantmaking and Subgrants.** NOLABA acknowledges and agrees that it is not authorized to provide grants or subgrants from the funds provided to it from the City without the prior written approval of the City, and such approval should not be unreasonably withheld.

K. **Fiscal Agent or Sponsor.** The Parties acknowledge and agree that from time to time NOLABA will serve as a fiscal agent or sponsor for the City for special events and other projects as mutually agreed to by the Parties in writing pursuant to a separate agreement.

Section 4. Additional Undertakings by NOLABA.

A. **Cooperation and Collaboration:** NOLABA shall cooperate and collaborate with the City, its agencies and any other contractors providing services to City as needed. In addition, NOLABA shall partner with the regional economic development organization, GNO, Inc., to increase economic development in the City.

B. **Reporting:** NOLABA shall present its annual report to the Mayor and City Council that includes presentation of a projected business plan (i.e. Top Priorities for the upcoming year), not to occur later than September 30th of a given year. In addition, as a grant recipient of the Economic Development Fund, per Sec. 70-408 (g)(1) the New Orleans Business Alliance shall provide semi-annual reports beginning six (6) months after the award of a grant to the Mayor's Office of Economic Development certifying and detailing all expenditures of grants funds and describing how the grantee is or is not meeting its objectives. It shall also provide the Mayor's Office of Economic Development with quarterly updates, and as requested, reports of significant activities, findings, and/or agreements entered.

C. **Meetings:** The President and CEO of NOLABA shall be available to meet monthly with the Mayor and at other times as requested. Meetings of the Board shall be made open to the public, as defined in Section E below.

D. **Exclusivity:** NOLABA acknowledges and agrees that its sole mission is to enhance economic development in the City of New Orleans and Orleans Parish. Thus, it agrees that it will not undertake the Services provided herein for any other governmental, private or other entity unless the City of New Orleans and Orleans Parish are the primary beneficiaries of such Services and unless the

Mayor's Advisor for Economic Development (or his/her successor) provides his/her express written consent.

E. **<u>Disclosures/Transparency</u>:** NOLABA agrees to follow all applicable laws, ordinances, rules and regulations concerning open meetings, public records, and ethics disclosures. Nothing in this Agreement shall be construed to reduce, modify or limit NOLABA's obligations under such laws, ordinances, rules and regulations.

1. **<u>Open Meetings</u>:** Irrespective of whether it is required to do so by law, NOLABA agrees to follow the open meetings law, La. R.S. §42:14 et seq.

2. **<u>Public Records</u>:** NOLABA will follow the Public Records Law, La. R.S. §44:1 *et seq.*

3. **<u>Ethics</u>:** Irrespective of whether it is required to do so by law, NOLABA agrees that its Board Members will make financial disclosures to the City in accordance with La. R.S. §42:1124:2.1, on the form established by the Louisiana Board of Ethics for such purpose. Such disclosures shall be filed with the City in accordance with Article XII of this Agreement no later than June 1st of the year or such other date as approved by the City during the term of this Agreement. Such disclosures will be considered timely filed if postmarked by June 1st or on receipt by the City on June 1st.

F. **<u>Notice of Proposed Changes to Bylaws and Articles of Incorporation</u>:** NOLABA agrees to provide written notice to the Director, Office of Economic Development (or his/her successor or designee) of any proposed changes to the bylaws and articles of incorporation prior to adoption by the Board.

<u>ARTICLE II - REPRESENTATIONS AND WARRANTIES</u>

<u>Section 1. Representations and Warranties of NOLABA</u>. NOLABA represents and warrants that:

A. NOLABA has not employed or retained any entity or person, other than a bona fide employee working solely for NOLABA, to solicit or secure this Agreement nor has NOLABA paid or agreed to pay any entity or person, other than a bona fide employee, any gift, commission, percentage, brokerage or any other such fee for the purpose of assisting NOLABA in securing this Agreement. NOLABA acknowledges its understanding that any gifts made or fees paid in contravention of this representation and warranty shall be considered bribery pursuant to City Code Section 70-509 and shall subject the offender to criminal penalties in addition to suspension from participation in City contracting for a period of not less than three years. The execution of this Agreement by NOLABA's duly authorized representative shall be deemed a sworn statement by NOLABA of its compliance with this representation and warranty, as required by City Code Section 46-51;

B. As of the Effective Date of this Agreement, NOLABA has no knowledge of any undisclosed fact that could materially adversely affect its condition (financial or otherwise), business operations or its ability to fulfill its obligations under this Agreement;

C. NOLABA is not in breach of any federal, state or local statute or regulation applicable to NOLABA or its operations;

D. NOLABA, through its duly authorized representative, has the full power and authority to enter into and execute this Agreement and, as such, this Agreement is legally binding upon and enforceable against NOLABA in accordance with its terms;

E. NOLABA's work shall be accurate and free from any material errors. NOLABA's duties as set forth in this Agreement shall at no time be in any way diminished by reason of any approval by City nor shall NOLABA be released from liability by reason of such approval by City—it being understood that City, at all times, is ultimately relying upon NOLABA's skill and knowledge in performing the Services; and

F. NOLABA has read and fully understands the terms, covenants and conditions set forth in this Agreement and is executing the same willingly and voluntarily of its own volition.

Section 2. Standard of Care. NOLABA hereby represents and warrants that it has the requisite skills and expertise necessary to perform the Services. Accordingly, NOLABA shall be obligated to perform such Services with the same degree of care, skill and diligence as would be ordinarily exercised by a competent practitioner of the same profession in which NOLABA is engaged in providing similar services in major United States metropolitan areas under the same or similar circumstances. NOLABA acknowledges and agrees that, at City's option, NOLABA shall be obligated to re-perform, at no additional cost to City, any or all of the Services that fail to satisfy the foregoing standard of care.

Section 3. Reliance on Representations, Warranties and Covenants. All representations, warranties, covenants and agreements made in this Agreement are intended to be material and shall be conclusively deemed to have been relied upon by the receiving party.

ARTICLE III – DURATION AND TERMINATION

Section 1. Term. This Agreement shall commence on the Effective Date and shall continue for a period of three (3) years as to the non-federal funds and the scope of work associated therewith. All federal subgrants incorporated herein, and the scopes of work associated therewith, shall terminate one (1) year after the Effective Date.

Section 2. Extension. The City can opt to extend the term of this Agreement provided that the City Council approves it as a multi-term cooperative endeavor agreement and that additional funding, if required, is allocated by the City Council.

Section 3. Termination for Convenience. The City shall have the right to terminate this Agreement without cause by giving NOLABA written notice of its intent to terminate at least one-hundred eighty (180) days prior to the date of termination. In the event the City elects to terminate for convenience, the City shall be obligated to pay NOLABA only for those Services performed up to and through the date of termination.

Section 4. Termination for Cause. Notwithstanding Article VIII Section 2, the City may terminate this Agreement immediately for cause by sending written notice to the Contractor. "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 the requirements of the City's Disadvantaged Business Enterprise program and 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 60 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.

Section 5. 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. The City agrees to alert NOLABA of the likelihood of Termination for Non-Appropriation reasonably promptly after it becomes clear that such funds may be the subject of non-appropriation. City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

ARTICLE IV - EQUITABLE BUSINESS OPPORTUNITIES

Section 1. DBE Program Compliance. NOLABA agrees to use its best efforts to fully and completely carry out the applicable requirements of the City's EBO program in the award and administration of this Agreement, including, without limitation, all reporting requirements and specific EBO participation goals, as set forth in Section 2 below. NOLABA's failure to carry out these requirements, as determined in good faith by the EBO Compliance Officer, shall be deemed a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as set forth in the City's Policy Memorandum for the EBO Program. The Parties agree and acknowledge that the City Disadvantaged Business Enterprise ("**DBE**") Program recently underwent a name change prior to the commencement of this Agreement. However, notwithstanding Ordinance Calendar No. 33,225 amending and re-ordaining Chapter 70, Article IV Division 2 of the City Code of the City of New Orleans by renaming, restructuring, and simplifying the City's disadvantaged business enterprise program, the Parties agree and acknowledge that for the purposes of this Agreement, any reference to the EBO or DBE program shall be synonymous, regardless of the nomenclature.

Section 2. Equitable Businesses Opportunities Compliance Reporting. As a Louisiana not-for-profit corporation, NOLABA is not obligated to provide EBO Compliance Reporting; however, in an effort to model effective diversity, equity and inclusion program management, NOLABA agrees to provide semi-annual written reports to the City's Director of Supplier Diversity on all expenditures made to achieve compliance with the EBO participation goals for this Agreement. It should be noted that NOLABA definition of EBO is BIPOC and will not align directly with the City's EBO definition. The report shall, at a minimum, include the following:

1. The name and business address of each EBO involved in the Agreement;
2. A description of the work performed and/or the product or service supplied by each EBO;
3. The date and amount of each expenditure made to each EBO; and
4. Such other information as may assist the EBO Compliance Officer in determining State's compliance with the EBO Program and the status of any EBO performing any portion of the Agreement.

Section 3. Access to Books and Records. NOLABA agrees to grant the EBO Compliance Officer reasonable access to its books and records for purposes of verifying compliance with the EBO Program.

ARTICLE V - INDEMNIFICATION

Section 1. Duty to Indemnify City Against Loss. To the fullest extent permitted by law, NOLABA shall protect, defend, indemnify and hold harmless City, its agents, elected officials and employees (collectively, the "**Indemnified Parties**") from and against all claims, actions, liabilities, losses (including, without limitation, economic losses) and costs, arising out of or related to (a) any actual or alleged act or omission in the performance of the Services by NOLABA or any sub-contractor (b) any act outside the scope of the Services by NOLABA or any sub-contractor (c) for unauthorized use or disclosure by the NOLABA of Confidential Information or (d) for any breach of applicable laws by the Contractor, and its and their agents, employees, subcontractors, vendors, and suppliers. By way of illustration—not limitation, NOLABA's obligation to indemnify City shall extend to the following, provided that such claims arise out of or relate to the performance of the Services by NOLABA: (i) personal injury claims, (ii) property damage or loss claims, (iii) fines or sanctions resulting from violations of any law, statute, ordinance, rule, regulation or intellectual property rights by NOLABA and (iv) liens, claims or actions made by NOLABA, any sub-contractor or any employees thereof under workers compensation acts, disability benefits acts, other employee benefit acts or any statutory bar.

Section 2. Limit on Duty to Indemnify. Notwithstanding anything to the contrary herein, NOLABA shall not be required to indemnify the Indemnified Parties for any loss that results from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that NOLABA or any sub-contractor did not contribute to such gross negligence or willful misconduct.

Section 3. Independent Duty to Defend. NOLABA specifically acknowledges and agrees that it has an immediate and independent obligation to, at City's option, (a) defend City from or (b) reimburse City for its costs incurred in the defense of any claim that actually or potentially falls within this Article, even if the allegations are or may be groundless, false or fraudulent. This obligation shall remain in full force and effect even if NOLABA is ultimately absolved from liability.

Section 4. Expenses. Notwithstanding any provision to the contrary, NOLABA 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 - INDEPENDENT CONTRACTOR

Section 1. Independent Contractor Status. The Contractor 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.

Section 2. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Contractor, 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 Contractor will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

Section 3. Exclusion of Unemployment Compensation Coverage. The Contractor, 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 Contractor 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 Contractor 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 Contractor are outside the normal course and scope of the City's usual business; and (c) the Contractor has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

Section 4. Waiver of Benefits. The Contractor, 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.

Section 5. No Withholding; Form 1099 Reporting. NOLABA understands and agrees that (a) the City will not withhold on behalf of NOLABA any sums for any federal, state or local income tax, unemployment insurance, social security, or any other withholding pursuant to any law or requirement of any governmental body, and that the City will not make available to NOLABA any of the benefits afforded to employees of the City; (b) all of such withholdings and benefits, if applicable, are the sole responsibility of NOLABA; and (c) NOLABA will indemnify and hold the City harmless from any and all loss or liability arising with respect to any such withholdings and benefits. The parties agree that if the Internal Revenue Service questions or challenges NOLABA's independent contractor status, both NOLABA and City shall have the right to participate in any discussion or negotiation with the Internal Revenue Service. NOLABA acknowledges that all compensation paid to NOLABA pursuant to this Agreement will be reported annually by the City to the Internal Revenue Service on Form 1099.

ARTICLE VII - INSURANCE

Section 1. Minimum Insurance Requirements. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

If the Contractor 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 the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:
Minimum Requirements:

1. 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.
2. 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.
3. 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.
4. Professional (Directors and Officers) Liability Insurance or equivalent appropriate to the Contractors profession with limits of liability of not less than $1,000,000 per occurrence or claim / $2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement.

Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.

Important: Contractors shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.

The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations.

It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractors obligations and/or Scope of Work. Contractor shall be responsible for any losses, expenses, damages, claims and/or suits of any kind which exceed the Contractors limits of liability that arise from the performance of work under the Contract.

Section 2. Additional Insured Status. The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers as "Additional Insureds" on the CGL and AL policies with respect to liability arising out of the performance of this agreement. Additional Insured status can be provided in the form of an endorsement to the Contractors 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).

Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-contractor liability shall be covered by the Contractor. 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.

The Additional Insured box shall be marked "Y" for Commercial General Liability and Auto Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

Primary Coverage: For any claims related to this agreement, the Contractors 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 the Contractors coverage.

Section 3. Claims Made Policies. If applicable, the retroactive date must be shown and must be before the date of the agreement 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 3 years after the termination of this agreement.

Section 4. Waiver of Subrogation. The 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 agreement.

Section 5. Notice of Cancellation. Each insurance policy required above shall not be canceled, expire or altered except without prior notice to the City of no less than 30 days.

Section 6. 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.

Section 7. Notice. The Contractor will provide the City's Risk Manager at:

City of New Orleans
Attn: Risk Manager-Ref: CEA
1300 Perdido Street, Suite 9E06
New Orleans, LA 70112

the following documents, within 10 business days of the City's reasonable request: Copies of all policies of insurance, including all policies, forms, and endorsements.

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.

Section 8. 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 VIII - PERFORMANCE MEASURES

Section 1. Factors. The City will measure the performance of the Contractor 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).

Section 2. Failure to Perform. If the Contractor fails to perform according to the Agreement, the City will notify the Contractor, and provide it 30 days to cure the failure. If after the 30 days have elapsed, there is a continued lack of performance, the City may declare the Contractor 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 IX – LIVING WAGES

Section 1. 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.

Section 2. 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.

Section 3. 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.

Section 4. 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.

Section 5. 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.

Section 6. 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

Section 7. 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.

Section 8. 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 X - NON-DISCRIMINATION

Section 1. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not be discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, sex, 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, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

Section 2. Non-Discrimination. In the performance of this Agreement, the Contractor 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 Contractor in any of Contractor'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.

Section 3. Incorporation into Subcontracts. 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.

Section 4. Termination for Breach. The City may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE XI - NOTICE

Section 1. Any notice, demand, communication or request required or permitted hereunder shall be in writing and delivered in person or by certified mail, return receipt requested as follows:

If to City:	Peter Bowen Deputy CAO, Office of Business and External Services City of New Orleans 1340 Poydras Street, Suite 1000 New Orleans, LA 70112
and	Jeffrey Schwartz Director, Office of Economic Development City of New Orleans 1340 Poydras Street, Suite 1800 New Orleans, LA 70112
and	Sunni LeBeouf City Attorney City of New Orleans 1300 Perdido Street, 5E03 New Orleans, LA 70112
If to NOLABA:	Gilbert A. Montaño Chairman, Board of Directors NOLABA 1300 Perdido Street, 9th Floor New Orleans, LA 70126

and Norman E. Barnum, IV
Interim President and CEO
NOLABA
1250 Poydras Street, Suite 2100
New Orleans, LA 70112

Section 2. Notices shall be effective when received by each of the above-referenced individuals at the addresses specified above. Each party shall be responsible for notifying the other in writing that references this Agreement of any changes in the respective addresses set forth above.

Section 3. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the City and NOLABA.

ARTICLE XII - ADDITIONAL PROVISIONS

Section 1. 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.

Section 2. Assignment. This Agreement and any part of the Contractor's interest in it are not assignable or transferable without the City's prior written consent

Section 3. Audit and Other Oversight. The Contractor will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the Contractor 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 Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

Section 4. 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.

Section 5. 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 Agreement, 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 Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. 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 Agreement, or take any such legal action permitted by law or this Agreement. (iii) This section will not apply to any agreements 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 Agreement 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.

Section 6. Conflicting Employment. To ensure that the Contractor's efforts do not conflict with the City's interests, and in recognition of the Contractor's obligations to the City, the Contractor 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 Contractor 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 Contractor's performance of this Agreement. The City will make the final determination whether the Contractor may accept the other employment.

Section 7. 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 Contractor 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.

Section 8. 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.

Section 9. Employee Verification. The Contractor 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 Contractor 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 Contractor being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The Contractor 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 Contractor 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 Contractor fails to provide such the requested affidavit or violates any provision of this paragraph.

Section 10. 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.

Section 11. Jurisdiction. The Contractor 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 Contractor.

Section 12. 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.

Section 13. 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.

Section 14. Non-Exclusivity. This Agreement is non-exclusive and the Contractor 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.

Section 15. 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.

Section 16. 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.

Section 17. Ownership Interest Disclosure. The Contractor will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor 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 Contractor fails to submit the required affidavit, the City may, after 30 days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

Section 18. Ownership of Records. Upon final payment, all data collected and all products of work prepared, created or modified by the Contractor 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

Contractor's personnel and administrative records and any tools, systems, and information used by the Contractor 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 Contractor's consent and for no additional consideration to the Contractor.

Section 19. 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 Contractor, 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 Contractor pursuant to this Agreement without regard to the Contractor's otherwise satisfactory performance of the Agreement.

Section 20. 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.

Section 21. 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.

Section 22. 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.

Section 23. Subcontractor Reporting. The Contractor will provide a list of all natural or artificial persons who are retained by the Contractor at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the City. For any subcontractor proposed to be retained by the Contractor to perform work on the Agreement with the City, the Contractor must provide notice to the City within 30 days of retaining that subcontractor. If the Contractor 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.

Section 24. 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.

Section 25. Terms Binding. The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE XIII - ELECTRONIC SIGNATURE AND DELIVERY

Section 1. 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.

[SIGNATURES CONTAINED ON NEXT PAGE]

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

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

CITY OF NEW ORLEANS

BY: ______________________________

LATOYA CANTRELL, MAYOR

Executed on this 13TH **of** September**, 2021.**

FORM AND LEGALITY APPROVED:
Law Department

By: ______________________________

Printed Name: Tracy Tyler

NOLA BUSINESS ALLIANCE

BY: ______________________________

NORMAN E. BARNUM, IV, INTERIM PRESIDENT AND CEO

[redacted]

TAX I.D.

[END OF AGREEMENT]