

K21-906

AMENDMENT NO. 4 TO BID CONTRACT
BETWEEN
THE CITY OF NEW ORLEANS
AND
THE NEW ORLEANS RECREATION DEVELOPMENT COMMISSION
AND
ADT COMMERCIAL LLC
(ASSIGNMENT FROM PRATT LANDRY ASSOCIATES, INC. DBA
RED HAWK FIRE & SECURITY, LLC)
BID PROPOSAL NO.: 7005-02187
NORD FIRE ALARM AND SUPPRESSION MONITORING / MAINTENANCE

THIS FOURTH AMENDMENT (the “**Amendment**”) is made and entered by and among the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), the New Orleans Recreation Development Commission, represented by Brian P. Egana, Chairman (“**NORD**”), and ADT Commercial LLC, represented by Louis Quijano, General Manager (“**ADTC**” or the “**Contractor**”), who are sometimes each referred to in this Contract as a “**Party**,” and collectively, as the “**Parties**.” This Amendment shall be effective as of May 20, 2021 (the “**Effective Date**”).

WHEREAS, on April 27, 2017, the City and NORD issued Invitation to Bid No. 7005-02187 to obtain a bid contract for NORD’s fire alarm and suppression monitoring/maintenance, and on May 24, 2017, the City and NORD issued Addendum No. 1 (collectively, the “**ITB**”);

WHEREAS, Red Hawk Fire & Security (“**RHFS**”) responded to the ITB;

WHEREAS, after competitive selection, the City identified RHFS as a qualified firm and, on July 27, 2017, effective May 20, 2017 the City, NORD, and RHFS entered into a bid contract (the “**Contract**”) to provide those services described in the ITB;

WHEREAS, the Contract provided for an initial term of one (1) year from the Effective Date with the ability to extend the term for no more than four (4) one (1) year periods;

WHEREAS, on July 5, 2018, effective May 20, 2018 the Contract was amended for the first time to extend the Contract for one (1) year, through May 19, 2019 (“**Amendment No. 1**”);

WHEREAS, on December 9, 2019, effective May 20, 2019 the Contract was amended for the second time to extend the Contract for one (1) additional year through May 19, 2020 (“**Amendment No. 2**”);

WHEREAS, subsequent to the execution of Amendment No. 2, RHFS sold all of its assets to ADTC, which included RHFS’s interest in the Contract;

WHEREAS, ADTC agreed to assume all RHFS’s rights and obligations under the Contract;

WHEREAS, in accordance with Section 2 of Attachment “B” to the ITB, RHFS’s interest in this Contract were transferred and assumed by ADTC with the City’s prior written consent;

WHEREAS, on September 17, 2020, effective May 20, 2020 the Contract was amended for the third time to extend the Contract for one (1) additional year through May 19, 2021 (“**Amendment No. 3**”); and

WHEREAS, the City, NORD, and ADTC, each having the authority to do so, now desire to extend the term of the Contract for one (1) additional year for continuity of services.

NOW THEREFORE, for good and valuable consideration, the City, NORD, and ADTC amend the Contract as follows:

1. **Extension.** In accordance with Section 16 of Attachment B of the ITB, the Contract is extended for one (1) year from the Effective Date through May 19, 2022.
2. **Price.** The City and ADTC reaffirm the price proposal submitted by RHFS in response to the City’s ITB.
3. **Additional Miscellaneous Provisions.** The following terms and conditions are reaffirmed and/or added to the Contract, as follows:

LIVING WAGES

A. Definitions. Unless otherwise expressly provided in this Contract, 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 and to the extent that the value of the Contract, as amended, exceeds \$25,000, 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. Current Living Wage. In accordance with the Living Wage Ordinance, the current Living Wage per the Consumer Price Index data is equal to \$11.19. The Contractor shall be responsible for confirming the Current Living Wage by visiting <https://www.nola.gov/economic-development/workforce-development/>.

D. Adjusted Living Wage. In accordance with Section 70-806(2) of the City Code, the Contractor acknowledges and agrees that the Living Wage may be increased during the term of the Contract. Any City contract or City financial assistance agreement (a) extending from one calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted Living Wage, accounting for the annual Consumer Price Index adjustment. The indexing adjustment shall occur each year on July 1st using the Consumer Price Index figures provided for the calendar year ended December 31st of the preceding year, and thereafter on an annual basis.

E. Subcontract Requirements. As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance (“Article”). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

F. Reporting. On or before January 31st and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Contract, 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 Contract 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 Contract, said failure may result in termination of the Contract 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.

NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Amendment, the Contractor (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 Contractor’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 Amendment, 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.

C. 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.

D. The City may terminate this Amendment for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Amendment

4. Convicted Felon Statement. The Contractor swears that it complies with City Code § 2-8(c). No Contractor principal, member, or officer has, within the preceding five years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

5. Non-Solicitation Statement. The Contractor swears that it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Amendment. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment.

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

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Amendment, but all of which, when taken together, shall constitute one and the same contract.

8. Electronic Signature and Delivery. The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Amendment.

9. 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 Amendment, 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 Amendment, or to provide sufficient written reasons for deviation, is a material breach of the Contract, as amended. 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 Amendment, or take any such legal action permitted by law or this Amendment. (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 Amendment 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.

10. Cost Recovery. In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations."

[SIGNATURES CONTAINED ON NEXT PAGE]

[The remainder of this page is intentionally left blank]

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

CITY OF NEW ORLEANS

BY: _____

LATOYA CANTRELL, MAYOR

Executed on this 5th day of August, 2021.

FORM AND LEGALITY APPROVED:

Law Department

By: _____

Printed Name: _____

[SIGNATURES CONTAINED ON NEXT PAGE]

[The remainder of this page is intentionally left blank]

ADT COMMERCIAL LLC

BY: 
LOUIS QUIJANO, GENERAL MANAGER

TAX I.D.

[SIGNATURES CONTAINED ON NEXT PAGE]

[The remainder of this page is intentionally left blank]

NEW ORLEANS RECREATION DEVELOPMENT COMMISSION

BY: Brian P. Egana 7-24-21
BRIAN P. EGANA, CHAIRMAN

[END OF AMENDMENT]