

K23-1121

COOPERATIVE ENDEAVOR AGREEMENT

BY AND BETWEEN

THE CITY OF NEW ORLEANS

AND

THE INSTITUTE OF WOMEN AND ETHNIC STUDIES

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 The Institute of Women and Ethnic Studies, represented by Zoé Francis, Chief Operating Officer (“**IWES**” or the “**Contractor**”). The City and IWES may sometimes each be referred to as a “**Party**,” and collectively, as the “**Parties**.” The 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, IWES is a nonprofit, which principal address is located at 2021 Lakeshore Drive, Suite 220, New Orleans, LA 70112;

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 IWES desire to accomplish the valuable public purpose of supporting mental health among Black New Orleanians;

WHEREAS, IWES will promote Black Youth Mental Health in New Orleans; and

WHEREAS, the City will provide support through funding from the State of Louisiana and general staff support.

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

ARTICLE I - IWES’S OBLIGATIONS

A. Services. IWES will:

1. IWES will promote Black Youth Mental Health through its reACTion program, which addresses the ways in which social, political, and economic systems shape behaviors and

access to resources for Black youth. Aligned with other IWES initiatives, the agency plans to:

- a. Collaborate with mental health agencies and local schools to explore how mobile wellness care for children and youth can help to reduce suicidality and improve mental health outcomes of youth in New Orleans;
- b. Explore and communicate recommendations for implementing an arts-education framework to positively impact youth mental health; and
- c. Facilitate spaces for healing and transformation by harnessing the creativity, culture, and community strengths of New Orleans with the support of an intergenerational collective of artists, creatives, and culture-bearers.

2. Perform the professional and contract services and maintain all books and records pertaining to this Agreement for a period of three (3) years in accordance with the Line-Item Appropriation Cooperative Endeavor Agreement between the City of New Orleans and the State of Louisiana, which is attached hereto and fully incorporated herein as **Exhibit “A”**.

ARTICLE II - THE CITY’S OBLIGATIONS

A. **Administration.** The City will:

1. Administer this Agreement through the Office of Economic Development (“OED”);
2. Provide IWES with any documents deemed necessary for IWES’s performance of any work required under this Agreement; and
3. Provide access to OED personnel to discuss the required services during normal working hours, as reasonably requested by IWES.

ARTICLE III – COMPENSATION

A. **Maximum Amount.** The maximum amount payable by the City under this Agreement is a lump sum of \$50,000.00.

B. **Payment.** Unless otherwise agreed by the City, payment terms are NET 30 days upon the services described under this Agreement being delivered, rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City’s supplier portal. The City will make payments to IWES at the rate of compensation established in this Agreement based upon IWES’s certified invoices, except:

1. The City’s obligation to pay is contingent upon IWES’s: (a) submission of a complete and accurate invoice to the City; (b) satisfactory performance of the services and conditions required by this Agreement;
2. The City, in its discretion, may withhold payment of any disputed amounts, and no interest shall accrue on any amount withheld pending the resolution of the dispute;
3. The City may set off any amounts due to IWES against any amounts deemed by the City to be owed to the City by IWES pursuant this Agreement; and

4. All compensation owed to IWES under this Agreement is contingent upon the appropriation and allocation of funds for work under this Agreement by the City.

5. The City is not obligated under any circumstances to pay for any work performed or costs incurred by IWES that: exceed the maximum aggregate amount payable established by this Agreement; are beyond the scope or duration of this Agreement; arise from or relate to the any change order within the scope of the Agreement; are for services performed on days on which services were suspended, due to circumstances beyond the control of the City, and no work has taken place; arise from or relate to the correction of errors or omissions of IWES or its subcontractors; or the City is not expressly obligated to pay under this Agreement.

6. If this Agreement is terminated for any reason, the City will pay IWES only for the work requested by the City and satisfactorily performed by IWES through the date of termination, except as otherwise provided in this Agreement.

C. **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, IWES shall reimburse the City or disgorge anything of value or economic benefit received from the City if IWES fails to meet its contractual obligations."

ARTICLE IV - DURATION AND TERMINATION

A. **Term.** The term of this agreement shall be for 1 year from the Effective Date.

B. **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.

C. **Termination for Convenience.** The City may terminate this Agreement at any time during the term of the Agreement by giving IWES written notice of the termination at least 30 calendar days before the intended date of termination.

D. **Termination for Cause.** The City may terminate this Agreement immediately for cause by sending written notice to IWES. "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 30 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.

E. **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 and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

ARTICLE V - INDEMNITY

A. **In General.** To the fullest extent permitted by law, IWES 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 IWES, 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 IWES in connection with the performance of work under this Agreement.

B. **Limitation.** IWES'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 IWES nor any of its agents or employees contributed to such gross negligence or willful misconduct.

C. **Independent Duty.** IWES 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) IWES is ultimately absolved from liability.

D. **Expenses.** Notwithstanding any provision to the contrary, IWES 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 – INSURANCE

A. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, IWES 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 IWES’s scope of work under the Agreement.

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

1. 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 \$500,000.
- ii. Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, 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 \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.
- iv. Professional (Errors & Omission) Liability (Where applicable) - As professional services are required under the contract, insurance appropriate to IWES's 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 IWES 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, IWES must procure and evidence full extended reporting period (ERP) coverage.

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

Important: The obligations for IWES 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 IWES from any liability incurred as a result of their activities/operations in conjunction with IWESs obligations and/or Scope of Work.

2. Other Insurance Provisions:

- i. Additional Insured Status: IWES 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 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 insurance coverage can be provided in the form of an endorsement to IWESs 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).

The 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 IWES. 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 the City's Office of Economic Development located at 1340 Poydras Street, Suite 1800, New Orleans, LA 70112 with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

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

- ii. Primary Coverage: For any claims related to this agreement, IWESs 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 IWESs coverage.
- iii. 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, IWES must purchase "extended reporting" coverage for minimum of 3 years after the termination of this agreement.
- iv. Waiver of Subrogation: IWES 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.
- v. 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.
- vi. 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.

3. Notice: IWES will provide the City's Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: IWES CEA) the following documents, within 10 calendar days of the City's request:

- i. Copies of all policies of insurance, including all policies, forms, and endorsements:

- ii. 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.

4. 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 VII - PERFORMANCE MEASURES

A. **Factors.** The City will measure the performance of IWES 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 IWES fails to perform according to the Agreement, the City will notify IWES. If there is a continued lack of performance after notification, the City may declare IWES 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 VIII – 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, IWES 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, IWES, 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, IWES 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) IWES 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) IWES 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 IWES, payroll records and employee paychecks; and (ii) that the City may audit such records of IWES as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. **Remedies.** If IWES 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

A. **Equal Employment Opportunity.** In all hiring or employment made possible by, or resulting from this Agreement, IWES (1) will not 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 IWES'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.

B. **Non-Discrimination.** In the performance of this Agreement, IWES 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 IWES in any of IWES'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 IWES. IWES 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.** IWES 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. **Termination for Breach.** The City may terminate this Agreement for cause if IWES fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE XI - INDEPENDENT CONTRACTOR

A. **Independent Contractor Status.** IWES 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 IWES, 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 IWES will not be considered an employee of the City for the purpose of Worker’s Compensation coverage.

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

D. Waiver of Benefits. IWES, 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 XII- 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 IWES 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, IWES 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 IWES and without any further compensation due.

2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

ARTICLE XIII - 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:

Director of Economic Development
City of New Orleans
1340 Poydras Street, Suite 1800
New Orleans, LA 70112

&

City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

- 2. To IWES:

Zoé Francis, COO
The Institute of Women and Ethnic Studies
2021 Lakeshore Drive, Suite 220
New Orleans, LA 70122

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

C. Audit and Other Oversight. IWES will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires IWES 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, IWES 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 City's Hiring Requirements – Ban the Box.

1. IWES agrees to adhere to the City's hiring requirements contained in City Code Section 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, IWES must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirement is necessary.

2. Failure to maintain compliance with the City's hiring requirements through 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 IWES notice of noncompliance and allow IWES thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, IWES remains noncompliant, the City may move to suspend payments to IWES, void the Agreement, or take any such legal action permitted by law or this Agreement.

3. 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 remaining provisions of the Agreement will remain in full force and effect.

4. IWES 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.

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

G. 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 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 IWES based on 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.

H. Convicted Felon Statement. IWES complies with City Code § 2-8(c) and no principal, member, or officer of IWES 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.

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

J. Employee Verification. IWES 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 IWES 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 IWES being ineligible for any public contract for a period of 3 years from the date the violation is discovered. IWES 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. IWES will provide to the City an affidavit attesting to the above provisions if requested by the City. The City may terminate this Agreement for cause if IWES fails to provide such the requested affidavit or violates any provision of this paragraph.

K. 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.

A. Exhibits. The following exhibits will be and are incorporated into this Agreement: Exhibit “A” - Line-Item Appropriation Cooperative Endeavor Agreement between the City of New Orleans and the State of Louisiana.

L. Jurisdiction. IWES 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 IWES.

M. 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.

N. **No Expectation of Benefit or Special Treatment.** IWES swears that, as a result of the donation of the services that are the subject of this Agreement or otherwise, it has no expectation of benefit or special treatment with regard to other contracts or potential contracts with the City.

O. **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.

P. **Non-Exclusivity.** This Agreement is non-exclusive and IWES 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.

Q. **Non-Solicitation Statement.** IWES 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. IWES 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.

R. **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.

S. **Order of Documents.** In the event of any conflict between the provisions of this Agreement any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; Line-Item Appropriation Cooperative Endeavor Agreement between the City of New Orleans and the State of Louisiana.

T. **Ownership Interest Disclosure.** IWES will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in IWES and stating that no other person holds an ownership interest in IWES 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 IWES fails to submit the required affidavit, the City may, after 30 days' written notice to IWES, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

U. **Ownership of Records.** Upon final payment, all data collected and all products of work prepared, created or modified by IWES 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 IWES's personnel and administrative records and any tools, systems, and information used by IWES 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 IWES's consent and for no additional consideration to IWES.

V. 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 IWES, 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 IWES pursuant to this Agreement without regard to IWES's otherwise satisfactory performance of the Agreement.

W. 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.

X. 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.

Y. 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.

Z. Subcontractor Reporting. IWES will provide a list of all natural or artificial persons who are retained by IWES at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with IWES's work for the City. For any subcontractor proposed to be retained by IWES to perform work on the Agreement with the City, IWES must provide notice to the City within 30 days of retaining that subcontractor. If IWES fails to submit the required lists and notices, the City may, after thirty 30 days' written notice to IWES, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

AA. 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.

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

ARTICLE XVI - 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.

[EXHIBIT “A” ATTACHED SEPARATELY]

[SIGNATURES CONTAINED ON THE NEXT PAGE]

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

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

CITY OF NEW ORLEANS 

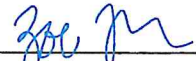
BY: _____
LATOYA CANTRELL, MAYOR

Executed on this 16th of November, 2023.

FORM AND LEGALITY APPROVED:
Law Department

By:  _____
Printed Name: Tracy Taylor

THE INSTITUTE OF WOMEN AND ETHNIC STUDIES

BY:  _____
ZOE FRANCIS, CHIEF OPERATING OFFICER

 _____
FEDERAL TAX I.D.

[EXHIBIT “A” ATTACHED SEPARATELY]

[END OF AGREEMENT]