

K21-174

COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

NEW ORLEANS POLICE AND JUSTICE FOUNDATION

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 New Orleans Police and Justice Foundation, represented by Melanie Talia, President and CEO (the "NOPJF" or the "Vendor"). The City and the NOPJF 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, the NOPJF is a non-profit corporation, which principal address is located at 141 Robert E. Lee Blvd., # 210, New Orleans, LA 70124;

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, whereas the City received grant funds for the New Orleans Police Department ("NOPD") for the purchase of dogs and associated training costs;

WHEREAS, the City and the NOPJF desire to accomplish a valuable public purpose of increasing public safety by obtaining new dogs and associated training costs for the NOPD;

WHEREAS, the NOPJF will ensure the dogs are purchased in accordance with relevant laws and grant requirements; and

WHEREAS, the City will provide all necessary funding for the purchase of the dogs and any related services.

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

ARTICLE I - THE NOPJF'S OBLIGATIONS

The NOPJF Will:

A. Complete the necessary paperwork to purchase dog(s) as well as any and all ancillary tasks and/or equipment associated with the purchase of the dog(s);

B. Advance the payments for the purchase of the dog(s) as well as any and all ancillary tasks and/or equipment associated with the purchase of the dog(s) including advancing payments for the legal certification of the dog(s) and NOPD handlers, said advances to be reimbursed to NOPJF by City of New Orleans pursuant to Article III of this agreement;

C. Coordinate the necessary training for dog(s) and handler(s) through full and legal certification thereby allowing the dog(s) to be used by and/or placed into service by NOPD; and

D. Perform any other tasks that both parties agree are necessary to complete the purchase of the dog(s), their training and their legal certifications.

ARTICLE II - THE CITY'S OBLIGATIONS

Administration. The City will:

A. Administer this Agreement through the NOPD;

B. Provide the NOPJF with any documents deemed necessary for the NOPJF's performance of any work required under this Agreement;

C. Provide access to NOPD personnel to discuss the required services during normal working hours, as requested by the NOPJF;

D. Provide consultation and coordination on the project;

E. Provide prompt approval and feedback for project revisions;

F. Provide a primary point of contact to work with NOPJF to implement this project; and

G. Provide a check for payment of invoices pursuant to Article III C. of this agreement.

ARTICLE III - FUNDING

A. **Maximum Amount.** The maximum amount funded by the City under this Agreement is sixty-two thousand eight hundred fifty-two dollars and no/100 (\$62,852.00). These funds are to be used to reimburse NOPJF for any money used related to the purchase or training of the dog(s) in addition to the transitioning handler(s) and the NOPD handler(s).

B. **Invoicing.** The Vendor must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include the following information: contract or purchase order number issued by the City, and the name of the city department to be invoiced. The City may require changes to the form or the content of the invoice. The City may also require additional supporting documentation to be submitted with invoices.

C. **Payment.** Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed (if required), rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City's supplier portal.

ARTICLE IV - DURATION AND TERMINATION

A. **Term.** The term of this agreement shall be for one 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 the NOPJF 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 the Vendor. "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 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. To the fullest extent permitted by law, the Vendor will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Vendor, its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Vendor in connection with the performance of work under this Agreement.

B. **Limitation.** The Vendor's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Vendor nor any of its agents or employees contributed to such gross negligence or willful misconduct.

C. **Independent Duty.** The Vendor has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Vendor is ultimately absolved from liability.

D. **Expenses.** Notwithstanding any provision to the contrary, the Vendor 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, the NOPJF will maintain the following insurance in full force and effect for the duration of the work under this Agreement:

1. **Minimum Requirements.**

Minimum Scope of Insurance: Coverage shall be at least as broad as the following:

Commercial General Liability ("CGL"): Insurance Services Office Form, covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Workers' Compensation: as required by the State of Louisiana, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease.

Professional Liability (Errors and Omissions): with limits no less than \$1,000,000.00 per claim.

Employee Dishonesty (Fidelity Bond/Crime Insurance): Vendor shall maintain Employee Dishonesty coverage and, when applicable, Inside/Outside Money & Securities coverages for City property in the care, custody and control of the vendor. Coverage limits shall not be less than \$1,000,000.00.

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

- a. **Additional Insured Status.** The Vendor will provide, and maintain current, a Certificate of Insurance naming The City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement. General liability coverage can be provided in the form of an endorsement to the Vendor's 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 Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificateholder and be delivered via U.S. Mail to 1300 Perdido Street, 9E06—City Hall, New Orleans, LA 70112.
- b. **Primary Coverage.** For any claims related to this contract, the Vendor's 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 Vendor's coverage.
- c. **Claims Made Policies.** If applicable, the retroactive date must be shown and must be before the date of the contract or the beginning of work. If the coverage

is canceled or non-renewed, and not replaced with another claims-made policy, Vendor must purchase "extended reporting" coverage for minimum of five years after the termination of this agreement

- d. Waiver of Subrogation. The Vendor 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 contract.
- e. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with prior notice to the City of no less than 60 days.
- f. 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.

B. The NOPJF 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.: Grant Procurement Assistance) within 10 calendar days of the Effective Date and at any other time at the City's request proof of coverage for each policy of insurance required by this Agreement;

C. Without notice from the City, the NOPJF will:

1. Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;
2. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement; and
3. Notify the City's Risk Manager in writing within 48 hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement.

ARTICLE VII - PERFORMANCE MEASURES

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

B. Failure to Perform. If the NOPJF fails to perform according to the Agreement, the City will notify the NOPJF. If there is a continued lack of performance after notification, the City may declare the NOPJF 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 vendor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting vendor.

ARTICLE VIII - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the NOPJF (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 NOPJF's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the NOPJF 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 NOPJF in any of NOPJF'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 Vendor. The Vendor 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 NOPJF will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

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

ARTICLE IX - INDEPENDENT CONTRACTOR

A. Independent Contractor Status. The NOPJF is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the NOPJF, as an independent contractor as defined in La. R.S. 23:1021(6), 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 NOPJF will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

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

D. Waiver of Benefits. The NOPJF, 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 X- MUTUAL FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City or by the NOPJF 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 or NOPJF); 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 or NOPJF, provided such event was not caused by the negligence or misconduct of City or NOPJF, by the failure of City or NOPJF to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City or NOPJF must provide notice in writing to the other party 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 or NOPJF has provided required notice, the City or NOPJF may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City or NOPJF, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Parties 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 NOPJF; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to the other party 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 XI - NOTICE

A. In General. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the City:

New Orleans Police Department
715 S. Broad St.
New Orleans, LA 70119

&

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

2. To the Vendor:

Melanie Talia
New Orleans Police and Justice Foundation
141 Robert E. Lee Blvd. #210
New Orleans, LA 70124

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 XI - ADDITIONAL PROVISIONS

A. Amendment. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

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

C. Audit and Other Oversight. The NOPJF will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the NOPJF 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 NOPJF 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. The Sub-recipient 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, Sub-recipient 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.

2. 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 Sub-recipient notice of noncompliance and allow Sub-recipient 30 days to come into compliance. If, after providing notice and 30 days to cure, the Sub-recipient remains noncompliant, the City may move to suspend payments to Sub-recipient, 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 the remaining provisions of the Agreement will remain in full force and effect.

4. The Sub-recipient will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all sub-Sub-recipients to comply with those provisions.

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

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

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

J. Employee Verification. The NOPJF 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 NOPJF 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 NOPJF being ineligible for any public contract for a period of three years from the date the violation is discovered. The NOPJF 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 NOPJF 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 NOPJF 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.

L. Jurisdiction. The NOPJF 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 NOPJF.

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. The NOPJF 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 the NOPJF 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-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.

R. 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.

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

T. **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 NOPJF, 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 NOPJF pursuant to this Agreement without regard to the NOPJF's otherwise satisfactory performance of the Agreement.

U. **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.

V. **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.

W. **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.

X. **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.

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

Z. **Vendor Status.** Throughout the execution of this agreement, the NOPJF is a vendor

providing the services referenced herein to the City of New Orleans and the New Orleans Police Department.

ARTICLE XII - COUNTERPARTS

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

ARTICLE XIII - ELECTRONIC SIGNATURE AND DELIVERY

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

[SIGNATURES CONTAINED ON NEXT PAGE]

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

CITY OF NEW ORLEANS

BY: [Signature] FOR
LATOYA CANTRELL, MAYOR

Executed on this 1st of March, 2021

FORM AND LEGALITY APPROVED:

Law Department

By: [Signature]

Printed Name: Tracy Tyler

NEW ORLEANS POLICE AND JUSTICE FOUNDATION

BY: Melanie A. Talia
MELANIE TALIA, PRESIDENT AND CEO


FEDERAL TAX I.D.