

K20-028

**AMENDMENT NO. THREE TO
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF NEW ORLEANS
BY AND THROUGH
THE NEW ORLEANS AVIATION BOARD
AND
UNISON CONSULTING, INC.
CNO PROJECT NO. 8910-02205**

THIS AMENDMENT is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "City"), by and through the New Orleans Aviation Board, represented by the Hon. Michael G. Bagneris, Chairman (the "Board") (collectively referred to as "Airport"), and Unison Consulting, Inc. represented by Anthony Q. Drake, Executive Vice President (the "Consultant"). The Airport and the Consultant are sometimes collectively referred to as the "Parties." The Amendment is effective December 12, 2020 (the "Effective Date").

RECITALS

WHEREAS, on March 12, 2018, the Airport and the Consultant entered into an Agreement for Professional Services for Airport Financial Consulting Services (the "Agreement");

WHEREAS, Amendment No. 1 dated December 12, 2018, exercised the first of four one-year renewal options and increased funding for Consultant's continued services;

WHEREAS, Amendment 2 dated December 12, 2019, exercised the second of four one year renewal options;

WHEREAS, the Airport and the Consultant, each having the authority to do so, desire to enter this Amendment to exercise the third of four one-year renewal options and allocate additional funding; and

WHEREAS, the Board approved this Amendment at its meeting held on October 15, 2020.

NOW THEREFORE, for good and valuable consideration, the Airport and the Consultant amend the Agreement as follows:

1. **Extension.** In accordance with Article 3 of the Agreement, the term is extended for an additional one year, from the Effective Date through December 11, 2021.
2. **Compensation.** The maximum amount payable for the services to be provided under this Agreement is \$770,000.00. The total amount of remuneration for this Agreement is a total amount not to exceed \$2,560,000.00.
 - a. **Cost Recovery.** In accordance with Section 2-8.1 of the New Orleans Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the NOAB or disgorge anything of value or economic benefit received from the NOAB if the Contractor fails to meet its contractual obligations.
3. **Convicted Felon Statement.** The Consultant swears that it complies with City Code § 2-8(c). No Consultant 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.

4. **Non-Solicitation Statement.** The Consultant swears that it has not employed or retained any company or person, to solicit or secure this Amendment other than a 1) bona fide employee working solely for Consultant; 2) consultant representing the Consultant; or 3) an attorney representing the Consultant. The Consultant has not paid or agreed to pay any person, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment other than a 1) bona fide employee working solely for Consultant; 2) consultant representing the Consultant; or 3) an attorney representing the Consultant.

5. **Living Wages.**

- a. **Definitions.** Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.
- b. **Compliance.** To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, et seq., which requires, in pertinent part, the following:
- i. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“Living Wage”);
 - ii. 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
 - iii. 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 Agreement. 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 Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

- g. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “OWD”) and/or the Chief Administrative Office (“CAO”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (ii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.
 - h. **Remedies.** If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the *penalties and enforcement mechanisms set forth in Section 70-811 of the City Code*.
6. **Indemnity.** Article 14 of the Original Agreement is deleted in its entirety and replaced with the following:
- a. To the fullest extent permitted by law, Consultant will indemnify, defend, and hold harmless the Airport, its respective 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 of the operation of Consultant, its agents or employees while engaged in or in connection with the discharge or performance of any Consultant obligations required under this Permit; and for any and all claims and/or liens for labor, services, or materials furnished to Consultant in connection with the performance of work under this Amendment.
 - b. **Limitation.** Consultant’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 Consultant nor any of its agents or employees contributed to such gross negligence or willful misconduct.
 - c. **Independent Duty.** Consultant has an immediate and independent obligation to, at the Airport's option:
 - i. Defend the Airport from or
 - ii. Reimburse the Airport 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. Consultant is ultimately absolved from liability.

- d. **Expenses.** Notwithstanding any provision to the contrary, Consultant shall bear the expenses including, but not limited to, the Board's and City's reasonable attorney fees and expenses, incurred by the Board and the City in enforcing this indemnity.

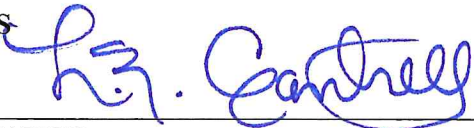
7. **Performance Measures.**

- a. **Factors.** The Airport will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).
- b. **Failure to Perform.** If the Contractor fails to perform according to the Agreement, the Airport will notify the Contractor. If there is a continued lack of performance after notification, the Airport may declare the Contractor in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the Airport will invoice the defaulting contractor for any increase in costs and other damages sustained by the Airport. Further, the Airport will seek full recovery from the defaulting contractor.
8. **Employee Verification.** The Contractor swears that (i) it is in compliance with La. R.S. 38:2212.10, and is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. The Contractor acknowledges and agrees that any violation of the provisions of this paragraph may subject this Agreement to cancellation, and may further result in the Contractor being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the cancellation of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of La. R.S. 38:2212.10. The Contractor agrees to provide to the City a sworn affidavit attesting to the above provisions if requested by the City to do so; failure to provide such affidavit upon request shall give the City the option to cancel this Agreement.
9. **Prior Terms Binding.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.
10. **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 agreement.
11. **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.

[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the Airport and the Consultant, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

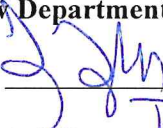
BY: 

LATOYA CANTRELL, MAYOR

Executed on this 16TH of April, 2021

FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Tracy Nyle

[BOARD SIGNATURES CONTAINED ON NEXT PAGE]

Approved by resolution of the New Orleans Aviation Board dated October 15, 2020 and directing the Chairman and Director of Aviation to execute the same:

NEW ORLEANS AVIATION BOARD

By: Michael Bagnets 4/7/21
Hon. Michael G. Bagnets, Chairman Date
New Orleans Aviation Board

By: Kevin Dolliole 4-7-21
Kevin Dolliole, Director of Aviation Date
New Orleans Aviation Board

Reviewed as to form and legality:

By: Michele Allen-Hart 4/7/2021
Michele Allen-Hart Date
General Counsel and Deputy Director of Legal Affairs
New Orleans Aviation Board

[CONSULTANT SIGNATURE CONTAINED ON NEXT PAGE]

UNISON CONSULTING, INC.

BY: 

ANTHONY Q. DRAKE, EXECUTIVE VICE PRESIDENT


FEDERAL TAX I.D. NO.