

K21-1250

AMENDMENT NO. 3 TO THE CONTRACT

BETWEEN

THE CITY OF NEW ORLEANS

AND

**KELLERMEYER BERGENSONS SERVICES, LLC (ASSIGNMENT FROM EMPIRE
JANITORIAL SALES & SERVICES, LLC)**

BID PROPOSAL NO.: 3010-01748

**FRENCH QUARTER AND DOWNTOWN DEVELOPMENT DISTRICT SANITATION
SERVICES**

THIS THIRD AMENDMENT (the "Amendment" or "Amendment No. 3") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "City"), and Kellermeyer Bergensons Services, LLC, represented by Charlie Lusco, President/Owner (the "Contractor"). The City and the Contractor are sometimes collectively referred to as "Parties". The Amendment is effective as of December 23, 2021 (the "Effective Date").

RECITALS

WHEREAS, on and effective December 23, 2014, the City and the Contractor entered into a bid contract to provide daily sanitation services for the City in the French Quarter ("FQ") and Downtown Development District ("DDD") and other related areas (the "Services") resulting from, but not limited to, special events, in a timely, efficient, and cost-effective manner (the "Contract") pursuant to the City's Invitation to Bid No. 3010-01748, issued November 19, 2014 (the "ITB");

WHEREAS, the Contract provided for an initial term of Seven (7) years from the effective date (i.e., December 23, 2014) with the ability to extend the term for no more than three (3) one (1) year periods;

WHEREAS, on October 9, 2019, and effective May 18, 2019, the City and the Contractor entered into an amendment to eliminate the curbside collection of plastic containers coded #3 through #7 and ferrous metal food containers ("Amendment No. 1");

WHEREAS, on June 2, 2021, and effective January 1, 2021, the City and the Contractor entered into an amendment, memorializing the assignment from Empire Janitorial Sales & Services, LLC to Kellermeyer Bergensons Services, LLC and modifying and/or reaffirming certain terms and provisions ("Amendment No. 2"); and

WHEREAS, the City and the Contractor, each having the authority to do so, desire to enter this Amendment to extend the duration of the Contract for the first of three (3) potential one (1) year extensions, and to modify and/or reaffirm the terms and conditions as set forth hereinunder.

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

1. **Systems.**

- a. Section 5.3.C(a) of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety and replaced, as follows:
- 5.3.C(a) The City operates the NOLA311 customer service center 24/7, 365 days per year.
- b. Section 5.3.C(e) of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety as it no longer applies (*i.e.*, NOLA311 customer service center 24/7, 365 days per year, so the calls do not need to be re-routed).
- c. Section 5.3.C(g) of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety, and replaced, as follows:
- 5.3.C(g) The Contractor is responsible for resolving all service requests and complaints within the timelines set forth in the table below. The Contractor shall capture the resolution in the NOLA311 on the same day that the service request is resolved, as the Parties agree and acknowledge that a service request is not fully resolved until the Contractor captures the fulfillment of the request in NOLA311.

Sanitation Service Request (NOLA 311)	Expected Business Days to Resolve Service Request	Notes
Dead Animal Pickup	2 days	
Large Item Pickup	7 days	Collection should occur on next scheduled bulky waste collection day.
Damage Caused By Contractor	1 day	Closure signifies action taken with regards to complaint, not resolution.
Missed Trash Pickup	1 day	
Missed Recycling Pickup	1 day	
Order Trash Cart	10 days	
Repair Trash Cart	10 days	
Replace Trash Cart	10 days	
Return Trash Cart	10 days	
Change size of Trash Cart	10 days	
Start Trash Service	10 days	
Stop Trash Service	10 days	

2. **Reporting.**

- a. Section 7.2.B(b) of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety, and replaced, as follows:

7.2.B(b) Addresses of all service locations/units. The Contractor shall provide a table with columns identifying the address(es), the total number serviceable units at the address, the number of serviceable residential units at the address, the number of serviceable commercial units at the address, whether the unit is in the FQ or DDD, and the unique serial number(s) for the trash roll cart(s) provided to each service location/unit. The Contractor will also clearly identify any new, deleted, or vacant service locations/units.

- b. Section 7.2.B. of Attachment "A" to the ITB, which is fully incorporated into the Contract, is amended by adding subsection (j) as follows:

7.2.B(j) A copy of the recycling processing ticket(s) from the Material Recover Facility ("MRF"). The Contractor shall be responsible for ensuring that the volume(s) are easily identifiable on each recycling processing ticket.

3. **Review and Decision.** Section 8.1.B of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety, and replaced with Section 8.1.B(a) and Section 8.1.B(b), as follows:

Section 8.1.B(a) Opportunity to Contest and/or Provide a Justifiable Explanation. The Contractor shall have three (3) calendar days from receipt of the City's email notice to contest the alleged services failure noticed by the City and provide the City with written documentation, clearly demonstrating that the service failure has been satisfactorily cured equivalent to the service requirements of this Contract, provided, however that the three (3) calendars days allotted to contest do not extend the cure periods set forth in Section 8.1(C). Alternatively, the Contractor may provide the City with an explanation of a justifiable cause of the noticed failure(s), which the City, in its sole

judgment, may elect to review before making a final determination. The Contractor's failure to contest or provide an explanation within the allotted period, shall be deemed an admission of the service failure(s). The Parties acknowledge and agree that the Contractor has the burden of proving through written documentation that the service failure has been remedied timely (e.g., timestamped photo, written affidavit from person domiciled in the residential unit or authorized representative for the commercial unit, GPS data, etc.). The Parties agree and acknowledge that a service request, which is not fully resolved in NOLA311, is sufficient to allow the City to notice the Contractor and to impose stipulated damages for the service failure.

Section 8.1.B(b)

Review and Decision. The City shall take into account all provided documentation and or explanation(s) provided by the Contractor when determining whether to assess and the amount of unsatisfactory performance damages. The City has the right to reduce or eliminate the amount of the assessed unsatisfactory performance damages in its sole discretion. The City shall provide the Contractor with an official determination and the amount of any assessed unsatisfactory performance damages within a reasonable amount of time upon receipt of the Contractor's written documentation and or explanation(s). The official determination shall be provided to the Contractor in writing via certified mail.

4. Procedures for Notification. Section 8.1.E of Attachment "A" to the ITB, which is fully incorporated into the Contract, is deleted in its entirety and replaced, as follows:

Section 8.1.E.

Procedures for Notification: The City shall first notify the Contractor via email (at the email address provided by the Contractor) of any failure(s) to timely or satisfactorily perform its obligations under this Contract. The Parties acknowledge and agree that any electronic mail message(s) sent from a City system, including, but not limited to, the City's 311 System, will satisfy the procedures for notification. The Contractor shall have twenty-four (24) hours to cure the failure(s) without penalty. Should the

Contractor fail to cure the failure(s) within twenty-four (24) hours, the City shall provide the Contractor with written notice via certified mail of the City's determination that the Contractor has failed to timely or satisfactorily perform its obligations under the Contract and the amount of unsatisfactory performance damages to which the Contractor may be subject.

5. **Assessment of Unsatisfactory Performance Damages.** Section 8.1 of Attachment "A" to the ITB, which is fully incorporated into the Contract, is amended by adding subsection Section 8.1.F, as follows:

Section 8.1.F

Assessment of Unsatisfactory Performance Damages. Upon completion of the process set forth in Section 8. Service Failures, unsatisfactory performance damages shall be deducted from the Contractor's compensation for its next invoice submitted following receipt of the City's determination sent via certified mail.

6. **Term.** In accordance with Section 10 of Attachment "B" to the ITB, which is fully incorporated into the Contract, the initial term of the Contract extended for seven (7) years from December 23, 2014, through December 22, 2021. In accordance with Section 12 of Attachment "B" to the ITB, the Parties agree and acknowledge that this Amendment shall extend the term of the Contract for an additional one (1) year from December 23, 2021 through December 22, 2022. This one (1) year extension is the first of three (3) additional one (1) year terms to extend the Contract at the option of the City.

7. **Price.** The City and the Contractor reaffirm the rates of compensation set forth in the Contractor's Bid dated December 16, 2014, submitted in response to the City ITB (the "**Contractor's Bid**"). The monthly cost per unit for Solid Waste Collection is reaffirmed at (Residential - \$21.10), (Commercial - \$52.00), and (Residential & Commercial - \$52.00). The monthly cost per unit for Recycling Collection is reaffirmed at (Residential, Commercial, and DDD - \$2.27).

8. **Maximum Amount.** Section 3 of Amendment No. 2 is deleted in its entirety and replaced, as follows:

3. **Maximum Amount.** The maximum aggregate amount payable by the City under this Contract is increased by \$3,953,577.00 to a maximum aggregate amount not to exceed \$31,628,616 through December 31, 2022.

9. **Living Wages.** On July 1, 2021, the Council of the City of New Orleans adopted and the Mayor approved Ordinance 28718 M.C.S., amending and re-ordaining Section 70-806 and 7-813 of the Code of the City of New Orleans to increase the required living wage for city contracts. Article VI – Living Wages, which was agreed to in Amendment No. 2, is further

amended, as follows:

VI - LIVING WAGES

A. Definitions. Unless otherwise expressly provided in this Amendment, 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:

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

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

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

G. Compliance Monitoring. Covered Employers under this Amendment 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 Amendment, said failure may result in termination of the Contract or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

10. Additional Miscellaneous Provisions. The following terms and conditions are reaffirmed and/or added to the Contract:

DECLARED DISASTER

A. Declaration. During the declaration of an emergency by federal, state, and/or local government, the Contractor shall provide support to the City on an as-needed and task-order-driven basis. Because of the uncertainty of the scale and/or type of emergency, the services to be provided by the Contractor will vary and may need to be adjusted as needs are identified. The Contractor may be requested to provide a range of services. Said services may need to be rendered on a continual basis (24 hours per day/7 days per week) during the declaration of an emergency.

B. Task Order - Notification and Personnel. Prior to or during the declaration of an emergency, the City will notify the Contractor via task order if the City requires the Contractor's support. Upon activation by task order, the Contractor will provide the City with contact information of personnel assigned to the task order; and coordinate with the City to identify any personnel available to meet the City's needs.

C. Purchase Order. Once services are identified, the City will issue a purchase order to the Contractor. The City will issue a subsequent purchase order in case of additional need for services or may issue a modified purchase order if changes are made to the initial purchase order.

D. Timely Documentation. The Contractor will ensure that the City is provided with timely and accurate reports and other documentation, as requested.

V- PERFORMANCE MEASURES

A. Factors. The City will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Contract; 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 Contract, the City will notify the Contractor. If there is a continued lack of performance after notification, the City may declare the Contractor in default and may pursue any appropriate remedies available under the Contract 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.

VII - COMPLIANCE WITH CITY'S HIRING REQUIREMENTS - BAN THE BOX

A. The Contractor agrees to adhere to the City's hiring

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

B. Failure to maintain compliance with the City's hiring requirements throughout the term of the Contract, or to provide sufficient written reasons for deviation, is a material breach of this Contract. Upon learning of any such breach, the City will provide the Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to Contractor, void the Contract, or take any such legal action permitted by law or this Contract.

C. This section will not apply to any Contracts excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable, and the remaining provisions of the Contract will remain in full force and effect.

D. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Contract, the Contractor (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Contract, the

Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. Incorporation into Subcontracts. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

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

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 Contract, 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 Contract.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Contractor 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 Contract 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 Contract 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 Contract, and there will be excluded from the computation of such period any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor 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 Contract, either immediately or after one or more periods of suspension, effective on notice to Contractor 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 Contract will be unaffected by any suspension or termination.

III - THE SURETY'S OBLIGATIONS

A. The Performance and Payment Bonds. Travelers Casualty and Surety Company of America ("Surety") intervenes in this Contract and binds itself as surety for:

1. The faithful performance of all work required of the Contractor by this Contract in the full sum of One Million Nine Hundred Seventy-Six Thousand Seven Hundred Eighty-Eight Dollars and Fifty Cents (\$1,976,788.50).

2. The full payment by the Contractor of all payments to be made by the Contractor under this Contract in the fully sum of One Million Nine Hundred Seventy-Six Thousand Seven Hundred Eighty-Eight Dollars and Fifty Cents (\$1,976,788.50).

Each of these bonds is to be considered separate and distinct, and no payment made by the Surety under either bond shall in any way reduce the obligation of the Surety under the other.

B. Acknowledgment of Contract. The Surety represents and warrants that it has fully read and understands the terms of this Contract, including all incorporated documents.

C. **Survival and Validity of Bond.** The Surety's bonds shall remain in full force and effect, and shall survive the termination of this Contract, but shall become null and void if the Contractor: (1) well and faithfully performs all and singular the obligations assumed by the Contractor in this Contract; (2) promptly pays all wages of laborers, workmen, and mechanics to be employed by the Contractor for all work done or labor performed by the Contractor or by any subcontractors; or furnished to subcontractors, and used in the construction, erection, alteration, performance, or repairs of the work required by the Contract; (3) promptly pays for all materials or supplies furnished to the Contractor, or by any subcontractor, or to any subcontractor, and used in, or for use in machines used in, the construction, erection, alteration, performance, or repair of the work required by the Contract; (4) fully secures and protects the City, its legal successors and representatives, from all loss or expense of any kind, including premises, including all costs of Court and attorneys' fees, made necessary or arising from the failure, refusal, or neglect of the Contractor to comply with all of the obligations assumed by it; and (5) promptly delivers all the work required by the Contract to the City, free from any and all claims, liens, and expenses. The obligations of the Surety will not be affected in any way by any modifications, omissions, or additions in or to the terms of this Contract, the plans or specifications, or in the manner and mode of payment.

VIII - ADDITIONAL PROVISIONS

11. **Ownership Interest Disclosure.** The Contractor shall provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes hereof, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City may, after 30 days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

12. **Subcontractor Reporting.** The Contractor shall provide a list of all persons, natural or artificial, who are retained by the Contractor at the time of the Contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the city. In regard to any subcontractor proposed to be retained by the Contractor to perform work on the Contract with the City, the Contractor must provide notice to the City within 30 days of retaining said subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after 30 days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required lists and notices are submitted.

13. **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 Contract, 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 Contract 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 Contract 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 Contract.

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

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

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

17. **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.

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

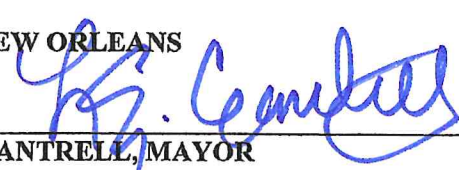
19. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original 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.

[The remainder of this page is intentionally left blank]

[SIGNATURES CONTAINED ON NEXT PAGE]

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

CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 15th of December, 2021.

FORM AND LEGALITY APPROVED:
Law Department

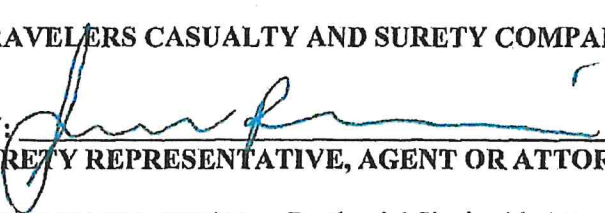
By: 
Printed Name: Andrew Gregorian

KELLERMEYER BERGENSONS SERVICES, LLC

BY: 
CASEY G. KILLIAN, EXECUTIVE VICE PRESIDENT



TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

BY: 
SURETY REPRESENTATIVE, AGENT OR ATTORNEY-IN-FACT

PRINT NAME, TITLE: Bartlomiej Siepierski, Attorney-in-Fact



[ORIGINAL POWER OF ATTORNEY AND THE PERFORMANCE AND PAYMENT
BONDS MUST BE ATTACHED TO THIS AMENDMENT.]

TRAVELERS

**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **BARTLOMIEJ SIEPIERSKI** of **CHICAGO, Illinois**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

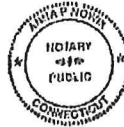
By: _____

Robert L. Raney
Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 12th day of November, 2021.



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**