

K23-095

PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN
THE CITY OF NEW ORLEANS
AND
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

THIS PROFESSIONAL SERVICES AGREEMENT (the “**Agreement**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and International Association of Chiefs of Police, represented by Terrence M. Cunningham, Deputy Executive Director/Chief Operating Officer (the “**Contractor/IACP**”). The City and the Contractor 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 sought qualified persons to provide professional services that include curating and implementing an executive search for the appointment of a Chief of Police, who will lead the New Orleans Police Department; and

WHEREAS, the Contractor submitted a proposal, and the City has selected the Contractor to perform the professional services described above; and

NOW THEREFORE, the City and the Contractor agree as follows:

ARTICLE I - THE CONTRACTOR'S OBLIGATIONS

A. Services. The Contractor will, in accordance with the schedule approved by the City:

1. The IACP will provide the City with a comprehensive executive search process for its appointment of a Chief of Police that will include the following elements:

- i. Creation of a Job and Candidate Profile through stakeholder interviews, job analysis, an evaluation of the policing environment, and community and department surveys.
- ii. Marketing and Recruitment to create a national outreach effort to gather the most qualified and diverse candidates.
- iii. Screening and Evaluation to acknowledge the receipt of application materials from candidates and to conduct an initial review of all resumes and cover letters.
- iv. Provision of an Assessment Center to evaluate both the technical competence and appropriate fit of the finalist group of candidates.
- v. Preparation of a Finalist Evaluation Report that will include an overall summary score, ratings, and behavioral information

concerning each candidate's strengths and weaknesses in performance-related dimensions.

- vi. Assistance with any negotiations between the City and finalists, as necessary.
- vii. Post-Hire Support to provide technical assistance to meet the needs of the new Chief of Police.

2. IACP's Project Team will be available for virtual meetings of up to forty (40) hours with the Chief Administrative Officer and/or their designee(s). These meetings will include project planning, candidate profiling, development, project updates, and candidate evaluation presentations.

3. Perform all other services and obligations as set forth in any of the following documents that are incorporated fully into this Agreement: the Contractor's proposal, attached separately as Exhibit "A."

4. Submit complete and accurate invoices, maintain records, submit to audits and inspections, maintain insurance, and perform all other obligations of the Contractor as set forth in this Agreement;

5. Promptly correct any errors or omissions and any work deemed unsatisfactory or unacceptable by the City, all at no additional compensation;

6. Monitor, supervise, and otherwise control and be solely responsible for all persons performing work on its behalf; and

7. Cooperate with the City and any person performing work for the City.

B. Standards. The Contractor, and any person performing work on its behalf, will perform all work under this Agreement in accordance with all legal requirements and professional standards observed by a human resource professional.

C. Compliance with Laws. The Contractor, and any person performing work on its behalf, will comply with all applicable federal, state, and local laws, regulations, and ordinances.

D. Schedule.

1. The Contractor will perform all work under this Agreement according to the following schedule:

PROCESS	TIME FRAME	DELIVERABLE
Project Management/Coordination Activities		
Kickoff Meeting	Week 1	
Data collection	Weeks 1-2	
Stakeholder Identification and Interview Scheduling	Weeks 1-2	
PPB Staff Survey and Community Survey	Week 3-4	
Conduct Stakeholder Interviews and Focus Groups	Weeks 3-5	
Candidate Profile Development	Week 6	Draft Candidate Profile Report
Finalize Candidate Profile	Week 6	Final Candidate Profile Report
Recruitment Brochure Development	Weeks 4-7	Recruitment Brochure
PPB Staff Culture & Leadership Survey	Weeks 7-8	
Job Open (Post to IACP, HAPCOA, NOBLE, NAWLEE, at minimum)	Weeks 8-10	
Recruitment and Marketing	Weeks 8-10	
Applicant Resume Reviews	Week 10-11	
Semi-Finalist Screening	Week 12-13	
City Update – Semi-Finalist Group	Week 13	Semi-Finalist Group Profiles
Assessment Center Administration	Weeks 15	
City Interviews with Finalists*	Week 15	
Finalist Report Preparation	Week 16	
Finalist Presentation & Report	Week 16	Finalist Evaluation Report
Background Reports	Weeks 15-17	
Post-Hire Technical Assistance	New Chief start date	New Chief Orientation Report

**The timeline for City stakeholder panel interviews can be adjusted based on the needs of the City.*

- i. The Contractor will submit a proposed progress schedule evidencing meaningful steps to achieving the requirements set forth above, in Article. I, Section (D)(1), to the City within fourteen (14) calendar days of receiving written authorization from the City to proceed. At a minimum, the proposed progress schedule must include the following information and be arranged so the actual progress can be shown as work is completed:
 - a. Deliverable #1: Initial Draft of the Candidate Profile Report
 - b. Deliverable #2: Final Candidate Profile Report
 - c. Deliverable #3: Recruitment Brochure
 - d. Deliverable #4: Semi-Finalist Group Profiles

- e. Deliverable #5: Finalist Evaluation Report
- f. Deliverable #6: New Chief Orientation Report

The City has the sole right to approve, reject, or require changes to all schedules relating to the performance of this Agreement, including, without limitation, any proposed progress schedule, and any requests for modifications. Any such rejection or required changes must be reasonable, however.

2. The Contractor acknowledges and agrees that time is of the essence in the performance of this Agreement.

E. Invoices.

1. The Contractor 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 ten (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:

- i. Name of Contractor;
- ii. Date of Invoice;
- iii. Invoice Number;
- iv. Contract or BRASS Number issued by the City (*i.e.*, K#);
- v. Name of the City Department to be invoiced (*i.e.*, Chief Administrative Office);
- vi. Description of the Services completed; and
- vii. FEMA or HUD Project Number (*i.e.*, PW#), if applicable.

2. Invoices will be processed in accordance with Article III, Section (B) of the Agreement.

3. All invoices must be signed by an authorized representative of the Contractor under penalty of perjury attesting to the validity and accuracy of the invoice.

4. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

F. Records and Reporting.

1. The Contractor will maintain all books, documents, papers, accounting records, invoices, materials records, payrolls, work papers, personnel records, and other evidence pertaining to the performance of services under this Agreement, including, without limitation, of costs incurred through the later of three (3) years from: (a) the completion of this Agreement (including any renewal or extension periods); or (b) from the resolution of any disputes relating to the Agreement. If this Agreement is terminated for any reason, the Contractor will deliver to the City all plans and records of work compiled through the date of termination. For the avoidance of doubt, this subsection (1) does not oblige Contractor to turn over to City any notes, work product, drafts, or mental impressions created by Contractor, but only a list or index of plans or work done. By way of example, if Contractor planned to interview Persons A and B, Contractor will disclose

to City those plans; but Contractor will have no duty to turn over notes, interviews or recordings or any other matter pertaining to its interview of Persons A or B.

2. The Contractor will identify any reporting requirements, including the frequency, methods, and contents.

3. The Contractor is solely responsible for the relevance and accuracy of all items and details included in any reports relating to the work performed under this Agreement, regardless of any review by the City.

4. In the event that the City or its representatives are required by applicable law or regulation or by legal process to demand or disclose any information received from or created by IACP, the City agrees that it will cause its representatives to provide IACP with prompt notice of such request or requirement in order to enable IACP to seek an appropriate protective order or other remedy.

G. Audit and Inspection.

1. The Contractor will submit to any City audit, inspection, and review and, at the City's request, will make available all documents relating or pertaining to this Agreement maintained by or under the control of the Contractor, its employees, agents, assigns, successors, and subcontractors, during normal business hours at the Contractor's office or place of business in Louisiana. If no such location is available in Louisiana, the Contractor will make the documents available at a time and location that is convenient for the City.

2. The Contractor will abide by all provisions of City Code Section 2-1120, including, but not limited to, City Code Section 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

H. Insurance.

1. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor 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 the Contractor's scope of work under the Agreement.

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

3. 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 \$1,000,000.
- 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

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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 - As professional services are required under the contract, insurance appropriate to the contractor'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 the Contractor in this agreement.
- v. Policies 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, the Contractor must procure and evidence full extended reporting period (ERP) coverage.
- vi. The Contractor shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.

4. The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive nor restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractor's obligations and/or Scope of Work.

5. Additional Insured Status: The Contractor 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 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 the Contractor'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 are used).

6. 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 the Contractor. 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 Chief Administrative Office, with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

7. 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.

8. Primary Coverage: For any claims related to this agreement, the Contractor's insurance coverage shall be primary insurance with respect to 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 Contractor's coverage.

9. **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, the Contractor must purchase “extended reporting” coverage for minimum of three (3) years after the termination of this agreement.

10. **Waiver of Subrogation:** The Contractor 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.

11. **Notice of Cancellation:** Each insurance policy required above shall not be canceled, allowed to expire, or altered except without prior notice to the City of no less than thirty (30) days.

12. **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.

13. **Notice:** The Contractor will provide the following documents to the City’s Risk Manager within ten (10) calendar days of the City’s request (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: PSA):

- i. Copies of all policies of insurance, including all policies, forms, and endorsements.
- ii. Substitute insurance coverage acceptable to the City within thirty (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.

14. **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.

I. Indemnity.

1. **In general.** IACP (the “**Indemnitor**”) agrees to defend, indemnify, and hold harmless the City, its elected officials, officers, department heads, employees and agents (the “**Indemnitee**”) from any third-party claims, alleging that the City violated Title VII or defamed, invaded the privacy of, or put in a false light the third party, which violation or tort(s) were the fault of the IACP and which arose from or were caused by the negligent acts or omissions or willful misconduct of the IACP in the performance of the services described in Article I of this Agreement.

2. **Limitation.** IACP’s duty to defend, indemnify and hold harmless the City is conditioned on and subject to compliance with all of the following terms:

- i. Indemnitor shall not be required to indemnify the Indemnitee for the Indemnitee’s sole negligence or misconduct;
- ii. Indemnitee must give notice of any claim to the Indemnitor as soon as practicable, provided that if Indemnitor suffers no prejudice thereby, later notice may be given;
- iii. Indemnitor shall have complete control of the litigation (“**litigation**” includes any proceeding of any nature in any forum, e.g. arbitration, administrative

inquiry, etc.), with full right to select counsel (in consultation with the Indemnatee) and settle any and all claims (without prejudice to the Indemnatee's rights or defenses;

- iv. Indemnatee at its own expense shall cooperate fully and promptly with the Indemnitor in the defense of any claim;
- v. Indemnatee may engage, at its own expense, its own counsel in the matter, but the Indemnitor's counsel shall have ultimate control and authority to settle;
- vi. Indemnitor's duties hereunder shall be proportional to the percentage of liability it is found to bear in the matter (e.g., if the Indemnitor is found fifty percent (50%) liable for an injury, the Indemnitor shall be liable to the Indemnatee for only fifty percent (50%) of any costs, expenses, liabilities, or damages the Indemnatee is found liable for);
- vii. If it is later determined that the Indemnitor was not at fault, then the Indemnatee shall pay back to the Indemnitor all amounts the Indemnitor paid to the Indemnatee pursuant to this indemnification clause;
- viii. Indemnitor's duty to defend, indemnify, and hold harmless the Indemnatee pursuant to this Agreement may be satisfied by the Indemnitor's obtaining the insurance required by this Agreement and subject to the limits of such insurance coverage. In any case, the Indemnitor's duty to defend, indemnify, and hold harmless will be capped at \$90,000.00; and
- ix. The Indemnitor's obligations under this clause will expire one year after the expiration of this Agreement.

3. **Liabilities.** IACP shall have no obligation to indemnify the City for claims caused by the negligence, willful misconduct, improper hiring practices, or unlawful discrimination of the City.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

A. The Contractor represents and warrants to the City that:

- 1. The Contractor, through its duly authorized representative, has the full power and authority to enter into and execute this Agreement;
- 2. The Contractor has and will maintain the requisite expertise, qualifications, staff, materials, equipment, licenses, permits, consents, registrations, and certifications in place and available for the performance of all work required under this Agreement;
- 3. The Contractor is bonded, if required by law, and fully and adequately insured for any injury or loss to its employees and any other person resulting from the actions or omissions of the Contractor, its employees, or its subcontractors in the performance of this Agreement;
- 4. The Contractor is not under any obligation to any other person that is inconsistent or in conflict with this Agreement, or that could prevent, limit, or impair the Contractor's performance of this Agreement;

5. The Contractor has no knowledge of any facts that could prevent, limit, or impair the performance of this Agreement, except as otherwise disclosed to the City and incorporated into this Agreement;

6. The Contractor is not in breach of any federal, state, or local statute, regulation, or code applicable to the Contractor or its operations;

7. Any rate of compensation charged for the performance of services under this Agreement are no higher than those charged to the Contractor's most favored customer for the same or substantially similar services;

8. The Contractor has read and fully understands this Agreement, and is executing this Agreement willingly and voluntarily; and

9. All of the representations and warranties in this Article and elsewhere in this Agreement are true and correct as of the date of execution of this Agreement by the Contractor, and the execution of this Agreement by the Contractor's representative constitutes a sworn statement, under penalty of perjury, by the Contractor as to the truth of the foregoing representations and warranties.

B. Convicted Felon Statement. The Contractor complies with City Code Section 2-8(c) and no principal, member, nor officer of the Contractor has, within the preceding five (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.

C. Non-Solicitation Statement. The Contractor has not employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Contractor has not paid nor 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.

D. Employee Verification. The Contractor 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 Contractor 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 Contractor being ineligible for any public contract for a period of three (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 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 Contractor 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 Contractor fails to provide the requested affidavit or violates any provision of this paragraph.

E. The Contractor acknowledges that the City is relying on these representations, warranties, expertise, skill, and knowledge, and that the Contractor's obligations and liabilities will not be diminished by reason of any approval by the City.

ARTICLE III - THE CITY'S OBLIGATIONS

A. Administration. The City will:

1. Administer this Agreement through the Chief Administrative Office (the "Department");
2. Provide the Contractor with all documents necessary for the Contractor's performance of any work required under this Agreement;
3. Provide reasonable access to Department personnel to discuss the required services during normal working hours, as requested by the Contractor; and
4. The City acknowledges and authorizes IACP to use the final quantitative, qualitative, and descriptive data from the final report in future IACP projects; the City understands that although IACP will not specifically identify the City when including these references, it is possible that a consumer of that data may be able to make that determination;

B. Payment. The City will make payments to the Contractor at the rate of compensation established in this Agreement based upon the Contractor's certified invoices, except:

1. The City's obligation to pay is contingent upon the Contractor's: (a) submission of complete and accurate invoices; and (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, provided the dispute is *bona fide*, 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 the Contractor with any amounts deemed by the City to be owed to the City by the Contractor pursuant to this Agreement; and
4. All compensation owed to the Contractor 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 the Contractor 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 any unauthorized 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 the Contractor or its subcontractors; or the City is not expressly obligated to pay under this Agreement.
6. Unless otherwise agreed by the City, payment terms are NET 30 days upon providing those 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 a properly submitted invoice via the City's supplier portal.
7. If this Agreement is terminated for any reason, the City will pay the Contractor for all services performed and accepted by the City.

ARTICLE IV - COMPENSATION

A. Rate of Compensation.

1. The City will pay the Contractor in accordance with the following rate:
 - i. Upon execution of the contract, the sum of thirty-six thousand dollars (\$36,000.00) shall be due and payable to IACP.
 - ii. Upon posting of the job profile and application requirements, the sum of eighteen thousand dollars (\$18,000.00) shall be due and payable to IACP.
 - iii. Upon completion of screening and evaluation, the sum of eighteen thousand dollars (\$18,000.00) shall be due and payable to IACP.00.
 - iv. Upon completion of services, the sum of eighteen thousand dollars (\$18,000.00) shall be due.
 - v. Payment by the City to IACP shall be made within thirty (30) days after receipt by the City of IACP's invoice.
2. This Agreement does not guarantee any amount of work or compensation except as specifically authorized by the City in accordance with the terms and conditions of this Agreement.
3. The stated compensation is inclusive, and includes no additional amounts for, the Contractor's costs, including, without limitation, all expenses relating to overhead, administration, subcontractors, employees, bid preparation, bonds, scheduling, invoicing, insurance, records retention, reporting, inspections, audits, the correction of errors and omissions, or minor changes within the scope of this Agreement. The City will not consider nor be obligated to pay or reimburse the Contractor any other charges or fees, and the Contractor will not be entitled to any additional compensation or reimbursement, except as otherwise specifically provided in the Agreement.
4. The Contractor will immediately provide written notification to the City of any reduction to the rate of compensation for its most favored customer, and the rate of compensation established by this Agreement will automatically adjust to the reduced rate effective as of the effective date of the reduction for the most favored customer.

B. Maximum Amount. The maximum aggregate amount payable by the City under this Agreement is \$90,000.00.

ARTICLE V - DURATION AND TERMINATION

A. Term. The term of this Agreement shall begin on the date of execution by the City through December 30, 2023, provided there is an encumbrance of funds by the requesting department made from the funds allotted by the Chief Administrative Officer, which are derived from appropriations made by the City Council. This Agreement shall automatically terminate with respect to any period of time for which funds are not so encumbered.

B. Termination for Convenience. The City may terminate this Agreement at any time by giving the Contractor at least thirty (30) calendar days written notice of the termination.

C. 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.

D. Termination for Cause. The City may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes, without limitation, any failure to perform any obligation, 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 Section 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 thirty (30) days from the date the original written notice of termination for cause was sent to the challenging Party; no further notice will be required.

E. Suspension. Notwithstanding the article on Force Majeure, the City may suspend this Agreement at any time and for any reason by giving two (2) business days' written notice to the Contractor. The Contractor will resume work upon five (5) business days' written notice from the City.

ARTICLE VI – CONFIDENTIALITY, TRADE SECRET, AND PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION

A. The City acknowledges that IACP relies on trade secrets and proprietary confidential business information to provide the services.

B. The City further acknowledges that IACP trade secret information and proprietary confidential business information includes but is not limited to (a) IACP surveys, (b) responses and data provided in response to IACP surveys, (c) the identity of IACP survey respondents, (d) interview notes prepared by IACP, (e) computer software, data, programs, and supporting documentation used by IACP, and (f) all collation, analysis, organization, and comparison of data performed by IACP.

C. The City represents, acknowledges, and agrees that such information is (a) part of IACP's compilation, method, technique, and process from which it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable and necessary under the circumstances to maintain its secrecy, (b) is owned or controlled by IACP, and (c) is intended to be and is treated by IACP as private and the disclosure of the information would cause harm to IACP's business operations.

D. The City agrees to take reasonable measures to ensure that any trade secret and proprietary information marked as such by IACP is not released to any third party without the approval of IACP; however, the City shall not be liable for the unintentional disclosure of any such information.

E. The City also acknowledges and agrees that it will not intentionally disclose any IACP trade secret or proprietary confidential business information that is marked trade secret or proprietary by IACP and submitted to or held by the City in connection with the services and will notify IACP upon receipt of any requests for records under the Louisiana Public Records Law, that pertain to this Agreement to enable IACP to take action as necessary to prohibit the disclosure of any trade secret and/or proprietary information held by the City.

ARTICLE VII - 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 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 City will notify the Contractor. If there is a continued lack of performance after notification, the City may declare the Contractor in default and 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.

C. IACP represents to the City that its procedures (scoring etc.) will be in accord with standard internal control practices. Further, should IACP make an error that materially affects the promotional process, the City and IACP will negotiate an adjustment in the fee charged by IACP; in no case, however, will the adjustment to the contract price, if any, exceed ten percent (10%) of the contract price (\$9,000, which is ten percent (10%) of \$90,000.00, the contract price).

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, 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 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.

ARTICLE IX - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (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 the Contractor'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, 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 VII 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 these provisions.

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

ARTICLE X - INDEPENDENT CONTRACTOR

A. Independent Contractor Status. The Contractor 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. Specifically, the Parties represent, acknowledge, and agree to the following:

1. IACP is not acting on behalf of the City in any way, and the City is not delegating to, nor requesting IACP to assume any governmental function or any task the City could perform for itself.
2. The City is not exercising any control or supervision over the work to be performed by IACP but is only contracting for and interested in the final work product deliverables from IACP as described in IACP's proposal.
3. IACP is not an agent nor employee of the City for any purpose and is not entitled to any of the benefits provided by the City to the City's employees.
4. To assure the independence and integrity of the search, IACP will not tolerate any interference with, impediment to, or any attempt to influence, from any source, IACP's

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performance of its obligations under this Agreement or IACP's exercise of its professional judgment and discretion. Any attempts by any person to interfere with, impede, or improperly influence IACP's performance of its duties under this Agreement or IACP's independent judgment or professionalism will entitle IACP immediately to suspend work or terminate this Agreement altogether.

5. The City does not fund IACP.
6. The City and IACP do not commingle funds in any way.
7. IACP is not performing a City function.
8. The City is not involved with, regulation of, or control over IACP.
9. The City did not create IACP.
10. The City has no financial interest in IACP.
11. The City is the employer of the police chief and will make the final decision as to whom to hire.
12. IACP has absolutely no decision-making role in the hiring of the police chief.
13. IACP simply makes recommendations to the City, which the City may consider or disregard.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Contractor, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the Contractor will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. Exclusion of Unemployment Compensation Coverage. The Contractor, 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 the Contractor nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage is being hereby expressly waived and excluded by the parties, because: (a) the Contractor 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 Contractor are outside the normal course and scope of the City's usual business; and (c) the Contractor has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. Waiver of Benefits. The Contractor, as an independent contractor, will not receive from the City any sick or 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 XI – FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the Parties 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 either Party); 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 the Parties, provided such event was not caused by the negligence nor misconduct of neither Party, by the failure of either Party to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, a Party must provide notice in writing 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 a Party has provided required notice, the Parties may agree in writing to:
 - a. Suspend this Agreement for a duration to be set by the Parties, not to exceed ninety (90) days. During such time of suspension, the Parties will not be liable nor 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 upon the Parties' mutual agreement; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to a 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 XII - 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:

Chief Administrative Officer
1300 Perdido Street, 9th Floor
New Orleans, LA 70112

&

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

2. To the Contractor:

Meghann Casanova
44 Canal Center Plaza, Suite 200
Alexandria, VA 22314

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. If the intended recipient refuses or avoids delivery, then the date of the first attempted delivery will be deemed the date of receipt.

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 XIII - ADDITIONAL PROVISIONS

A. Amendment. The City's officers and employees are not authorized to request nor instruct the Contractor to perform any work beyond the scope or duration of this Agreement in the absence of an executed amendment to this Agreement. 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. Neither the Contractor nor any of its subcontractors may assign or transfer its rights, duties, or obligations under this Agreement without the prior written consent of the City.

C. 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.

D. Intentionally Omitted.

E. Conflicting Employment. To ensure that the Contractor's efforts do not conflict with the City's interests, and in recognition of the Contractor's obligations to the City, the Contractor will disclose any conflicts of interest to the City, and the Parties will negotiate in good faith to determine whether a conflict exists, and if a conflict exists, whether the conflict can be waived or otherwise remedied in accordance with Louisiana's governmental ethics rules. The City will make the final determination as to whether a conflict of interest exists, and if a conflict exists, how the conflict may be remedied.

F. Construction of Agreement. Neither Party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all 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 all Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or the Contractor 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.

G. 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.

H. 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.

I. Exhibits. The following exhibits will be and are incorporated into this Agreement:

1. Exhibit A: IACP’s Proposal

J. Order of Documents. In the event of any conflict between the provisions of this Agreement and any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; IACP’s Proposal.

K. Jurisdiction. The Contractor 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 Contractor.

L. Limitations of the City’s Obligations. The City has no obligations not explicitly set forth in this Agreement, any incorporated documents, or expressly imposed by law.

M. 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.

N. Non-Exclusivity. This Agreement is non-exclusive, and the Contractor 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.

O. 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 nor 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.

P. Intentionally Omitted.

Q. Ownership of Records. Upon final payment, the list or index of plans and final work product deliverables prepared by the Contractor in the performance of this Agreement will be the exclusive property of the City. 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 Contractor’s consent and for no additional consideration

to the Contractor.

R. Prohibition of Financial Interest in Agreement. No elected official nor 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 Contractor, 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 Contractor pursuant to this Agreement without regard to Contractor's otherwise satisfactory performance of the Agreement.

S. Prohibition on Political Activity. None of the funds, materials, property, nor 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.

T. 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.

U. 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. If reformation is not possible, the unenforceable provision shall be fully severable. The remaining provisions of the Agreement will remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

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

W. Survival of Certain Provisions. All representations, warranties, and obligations concerning records retention, inspections, audits, ownership, indemnification, payments, remedies, jurisdiction, choice of law, and insurance shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

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

ARTICLE XIV – COUNTERPARTS

A. 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 XV - ELECTRONIC SIGNATURE AND DELIVERY

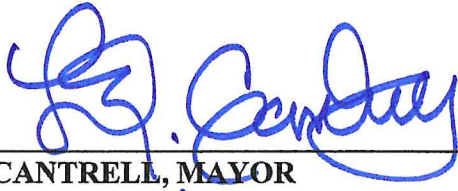
A. The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect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

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

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

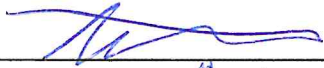
CITY OF NEW ORLEANS

BY: 
LATOYA CANTRELL, MAYOR

Executed on this 2nd of March, 2023.

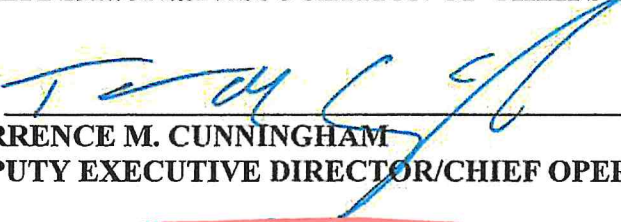
FORM AND LEGALITY APPROVED:

Law Department

By: 

Printed Name: Andrew Gregorian

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

BY: 
TERRENCE M. CUNNINGHAM
DEPUTY EXECUTIVE DIRECTOR/CHIEF OPERATING OFFICER


FEDERAL TAX I.D.

[EXHIBIT "A" ATTACHED SEPARATELY]