

AMENDMENT NO. 1 TO THE CONTRACT**BETWEEN****THE CITY OF NEW ORLEANS****AND****OHIO GASKET & SHIM CO.**

THIS FIRST AMENDMENT (the "Amendment") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "**City**"), and Ohio Gasket & Shim Co., represented by John S. Bader, President (the "**Contractor**"). The City and the Contractor are sometimes each referred to as a "**Party**," and collectively, as the "**Parties**." The Amendment is effective as of November 1, 2022 (the "**Effective Date**").

RECITALS

WHEREAS, the City and the Contractor entered into a contract for the provision of termite bait trap port cover components in response to Invitation to Bid No.828, issued on October 2, 2020 (the "**Agreement**"); and

WHEREAS, the City and the Contractor, each having the authority to do so, desire to enter this Amendment to extend the term of the agreement for continuity of services and to add certain terms and conditions; and

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

1. **Extension.** In accordance with Section (18) of the Invitation to Bid's Contract Terms and Conditions, the term is extended for an additional one (1) year from the Effective Date through October 31, 2023.

2. **Compensation.** The maximum amount payable under the Agreement is \$488,073.78.

3. **Price.** The City and Contractor reaffirm the price proposal submitted by the Contractor in response to the City's Invitation to Bid No. 828, dated October 2, 2020, and the Contractor's Bid Proposal, dated October 29, 2022.

4. **Additional Miscellaneous Provisions.** The following terms and conditions are added to the Agreement:

ARTICLE IV- FORCE MAJEURE

A. **Event.** An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by the 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 the City, provided such event was not caused by the negligence nor misconduct of the City, by the failure of the City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to 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 Agreement is being suspended.

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed 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 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 Agreement, either immediately or after one or more periods of suspension, effective on notice to the 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 Agreement will be unaffected by any suspension or termination.

5. **Convicted Felon Statement.** The Contractor swears that it complies with City Code Section 2-8(c). No Contractor principal, member, or officer 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.

6. **Non-Solicitation Statement.** The Contractor swears that it has not employed nor 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 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 Amendment.

7. **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. The signature on the original shall be in blue ink. Digital copies shall be in color.

8. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment. No legally binding obligation shall be created with respect to a Party until such Party has delivered or caused to be delivered a manually signed copy of this Amendment.

[SIGNATURES CONTAINED ON NEXT PAGE]

[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 22nd of MARCH, 2023.

**FORM AND LEGALITY APPROVED:
LAW DEPARTMENT**

BY: 

PRINTED NAME: Tracy Tyle

OHIO GASKET & SHIM CO.

BY: 
JOHN S. BADER, PRESIDENT

FEDERAL TAX I.D. 