

AMENDMENT NO. 3 TO COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

THE HELIS FOUNDATION

POYDRAS CORRIDOR SCULPTURE EXHIBITION

THIS THIRD AMENDMENT (the "Amendment") is made and entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "City"), and The Helis Foundation, represented by David A. Kerstein, President (the "Foundation"). This Amendment is effective as of July 15, 2021 (the "Effective Date"),

WHEREAS, pursuant Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

WHEREAS, the Foundation is a private foundation which principal of business is located 201 St. Charles Avenue, Suite 2600, in New Orleans, LA 70170;

WHEREAS, the City and the Foundation are parties to a cooperative endeavor agreement dated July 15, 2015 for the creation of an outdoor public art exhibition on the Poydras Street median between South Peters Street and South Broad Street (the "Exhibition Project") through the installation and maintenance of sculptures, interpretive signs, landscaping, and lighting necessary for the Exhibition Project (the "Agreement");

WHEREAS, on May 16, 2016, the City and the Foundation first amended the Agreement to expand the area of the Exhibition Project to include the Galvez Street median between Poydras Street and Canal Street (the "Expanded Exhibition Project");

WHEREAS, on November 15, 2016, the City and the Foundation amended the Agreement a second time to extend the duration of the Agreement; and

WHEREAS, the City and the Foundation now desire to amend the Agreement, as amended, for a third time to extend the duration of the Agreement.

NOW THEREFORE, the City and the Foundation, each having the authority to do so, agree to amend the Agreement, as amended, as follows:

ARTICLE I - OBLIGATIONS OF THE PARTIES

1. **Extension.** The term is extended for an additional five years from the Effective Date through July 14, 2026.
2. **Convicted Felon Statement.** The Foundation swears that it complies with City Code § 2-8(c). No principal, member, or officer of the Foundation 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.

3. **Non-Discrimination.** Article XI of the Agreement is deleted in its entirety and replaced with the following:

ARTICLE VI - NON-DISCRIMINATION

A. **Equal Employment Opportunity.** In all hiring or employment made possible by, or resulting from this Agreement, the Foundation (1) will not be 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 Foundation'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 Foundation 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 Foundation in any of the Foundation'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 Foundation. The Foundation 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 Foundation 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. **Termination for Breach.** The City may terminate this Agreement for cause if the Foundation fails to comply with any obligation in this Article, which failure is a material breach of this Agreement

4. **Non-Solicitation Statement.** The Foundation 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 Foundation 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.

5. **Prior Terms Binding.** Except as otherwise provided by this Amendment, the terms and conditions of the Agreement remain in full force and effect.
6. **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.
7. **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.

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

CITY OF NEW ORLEANS

BY: _____

LATOYA CANTRELL, MAYOR

FORM AND LEGALITY APPROVED:
Law Department

By: _____

Printed Name: _____

THE HELIS FOUNDATION

BY: _____

DAVID A. KERSTEIN, PRESIDENT

FEDERAL TAX ID.