

**AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF NEW ORLEANS
AND
SPEARS CONSULTING GROUP, L.L.C.**

THIS SEVENTH AMENDMENT (the “**Amendment**”) is entered into by and between the City of New Orleans, through the Council of the City of New Orleans (the “**Council**”), represented by Helena Moreno, Council President (the “**City**”), and Spears Consulting Group, L.L.C., represented by Cleveland Spears, President/CEO (the “**Contractor**”). The City and the Contractor may sometimes be collectively referred to as the “**Parties.**” The Agreement is effective as of March 1, 2022 (the “**Effective Date**”).

RECITALS

WHEREAS, on March 1, 2016, the City and the Contractor entered into a professional services agreement under which the Contractor agreed to provide communications consultant services to the City Council (the “**Agreement**”);

WHEREAS, on June 9, 2022, the Council adopted Motion, M-22-247, to renew the Agreement and to increase the maximum compensation amount;

WHEREAS, the City and the Contractor, each having the authority to do so, now desire to enter this Amendment to increase the maximum compensation payable during the Renewal Term for the purpose of continuity of services and to include additional contract provisions mandated by the City Code; and

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

1. **Compensation.** Article II, Section (C) of the Agreement is hereby superseded in its entirety and replaced with the following: The maximum aggregate compensation payable to the Contractor under this Agreement, inclusive of all extension terms, shall not exceed \$871,600. In addition to the foregoing limitation, the amount payable to the Contractor during the extension term shall not exceed \$59,100. The maximum compensation is inclusive of any necessary and ordinary expenses incurred by the Contractor.

2. **Extension.** In accordance with Article III of the Agreement, the term is extended for an additional six (6) month(s) from the Effective Date through August 31, 2022.

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

ARTICLE I-SCOPE OF SERVICES

B. The City Agrees to:

2. **Payment.** 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.

ARTICLE II-COMPENSATION

A. Invoices.

- a. 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:
 1. Name of Contractor;
 2. Date of Invoice;
 3. Invoice Number;
 4. Contract or BRASS Number issued by the City (i.e., K#);
 5. Name of the City Department to be invoiced (i.e., City Civil Service);
 6. Description of the Services completed;
 7. FEMA or HUD project number, if applicable.
- ii. Invoices will be processed in accordance with Article II of the Agreement.
- iii. 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.
- iv. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

ARTICLE VI-MISCELLANEOUS PROVISIONS

EE. 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.

ARTICLE VII-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.

ARTICLE VIII-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 may 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.

ARTICLE IX-FORCE MAJUERE

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 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 or 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 or 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.

ARTICLE X-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 the 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, and 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 XI-HIRENOLA

A. The Contractor agrees to abide by City Code Sections 70-496, *et seq.*, to demonstrate good faith efforts to fully carry out the applicable requirements of the HireNOLA Program as defined in the City Code. If the Contractor fails to comply with the requirements of the HireNOLA Program during the term of the Agreement, said failure may result in termination of the Agreement or pursuit of other remedies.

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

5. 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.

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

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.

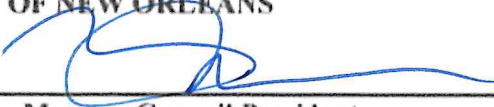
8. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Amendment and any other document(s) attached to this Amendment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original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

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[Signature page to follow]

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, execute this Amendment.

CITY OF NEW ORLEANS

BY: 

Helena Moreno, Council President

Executed on the 20 of October, 2022

SPEARS CONSULTING GROUP, L.L.C.

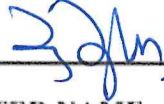
BY: 

Cleveland Spears, President/CEO

76-2982546

FEDERAL TAX I.D.

**FORM AND LEGALITY APPROVED:
LAW DEPARTMENT**

BY: 

PRINTED NAME: Tracy Tyle