

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: January 28, 2016

CALENDAR NO. 31,138

NO. 026300

MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS  GUNDRY AND  GRAY (BY REQUEST)

AN ORDINANCE to authorize the Mayor of the City of New Orleans to enter into a Cooperative Endeavor Agreement between the City of New Orleans (the "City") and the Audubon Commission to facilitate the construction of improvements to the Riverview and the Nature Center, as fully set forth in the Cooperative Endeavor Agreement form attached hereto and made a part hereof; and otherwise to provide with respect thereto.

WHEREAS, pursuant to the authority contained in Article 7, Section 14(C) of the Louisiana Constitution of 1974, and statutory authority supplemental thereto, the State of Louisiana and its political subdivisions, including the City, may enter into cooperative endeavors with each other, or with any public or private corporation or individual; and further pursuant to section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with any public or private association, corporation or individual for activities in support of economic growth and other public purposes; and

WHEREAS, the City desires to facilitate the construction of improvements to the Riverview and the Nature Center; and

WHEREAS, the City and the Audubon Commission desire to enter into this Agreement to provide for the implementation of the foregoing and to set forth certain other matters in connection therewith; **NOW, THEREFORE**

1 SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY
2 ORDAINS That the Mayor of the City of New Orleans is hereby authorized to enter into a
3 Cooperative Endeavor Agreement between the City of New Orleans and the Audubon
4 Commission to facilitate the construction of improvements to the Riverview and the Nature
5 Center.

1 SECTION 2. That said Cooperative Endeavor Agreement is attached hereto as "Exhibit
2 1" and made a part hereof.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS FEB 04 2016

Jason Rogers Williams
PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON FEB 05 2016

APPROVED: [REDACTED] FEB 15 2016

MITCHELL J. LANDRIEU
MAYOR

RETURNED BY THE MAYOR ON FEB 15 2016 AT 11:50 AM

LORA W. JOHNSON
CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS: Brossett, Cantrell, Gray, Guidry, Ramsey, Williams - 6

NAYS: 0

ABSENT: Head - 1

RECUSED: 0

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lora W. Johnson
CLERK OF COUNCIL

COOPERATIVE ENDEAVOR AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

AND

THE AUDUBON COMMISSION

THIS COOPERATIVE ENDEAVOR AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2016 (the "**Effective Date**"), by and between the City of New Orleans, represented by Mayor Mitchell J. Landrieu, Mayor (the "**City**"), and the Audubon Commission, represented by J. Kelly Duncan, President ("**Audubon**").

RECITALS

WHEREAS, the City is a local government subdivision of the State of Louisiana;

WHEREAS, Audubon is an independent agency of the City;

WHEREAS, pursuant to the authority contained in Article 7, Section 14(C) of the Louisiana Constitution of 1974, and statutory authority supplemental thereto, the State of Louisiana and its political subdivisions, including the City, may enter into cooperative endeavors with each other, or with any public or private corporation or individual; and further, pursuant to Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with any public or private association, corporation, or individual for activities in support of economic growth and other public purposes;

WHEREAS, the City and Audubon desire to enter into this Agreement for the construction of improvements to the Riverview, which improvements may include, but are not limited to, resurfacing the roadway, replacing lighting, installing emergency communications system, repaving riverside walk, replacing benches, renovating restroom facilities, and adding bicycle lanes on Riverside, East, and West Drives ("**the Project**");

WHEREAS, the Council for the City of New Orleans has appropriated funds in the amount of FIVE HUNDRED TWENTY-THREE THOUSAND FOUR HUNDRED SEVENTY-TWO AND 89/100 DOLLARS (\$523,472.89) from the sale of 2001 and 2014 Bond Funds for the Riverview;

WHEREAS, the City and Audubon desire to enter into this Agreement for the construction of improvements to the Nature Center, which improvements may include, but are not limited to, Formal entry at Lake Forest Blvd., with signage, landscaping, lighting and decorative gates; reconstruction and relandscaping of Waterford Street from the Lake Forest Driveway to the original entry; and signage and decorative gates at the original entry/new pedestrian gate from Joe W. Brown Park. ("**the Project**");

WHEREAS, the Council for the City of New Orleans has appropriated funds in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for the Project through Ordinance from the sale of 2005 Limited Tax Bonds for the Audubon Nature Center;

WHEREAS, Audubon will manage the construction of the Project;

WHEREAS, Audubon has the requisite skills and resources to provide the services described in the Agreement;

WHEREAS, Audubon is committed to expending the Project Funds from the City for the Project;

WHEREAS, this Agreement will satisfy a legitimate and valid public purpose which is to provide tangible and intangible benefits to the public at large, enabling Audubon to continue its mission of

providing educational and cultural experiences for the residents of New Orleans and the public at large;

WHEREAS, the City and Audubon, as set forth below, and in furtherance of their respective goals, seek to set forth their agreements regarding the Project and the funding for same.

NOW THEREFORE, the City and Audubon, under the conditions set forth, do agree as follows:

ARTICLE I - SCOPE OF SERVICES

Section 1. Audubon's Obligations (the "Services"). Audubon will:

- a. Perform the planning, design, and construction of renovations and enhancements to the Project;
- b. Assure that materials and construction procedures used in the construction process shall be acceptable to the City;
- c. Provide the City one set of plans and specification during all phases of design (schematic, DD, and CD) for review. The City will provide written comments within ten (10) days of receipt of said documents per each review;
- d. The City shall have the right to review and approve all plans and specifications produced by Audubon
- e. Allow access to the City to review progress of construction during normal business hours. The City will provide Audubon notice to any site visit at the earliest reasonable time; notice will be sent to Laurie Conkerton at lconkerton@auduboninstitute.org, (504) 212-5221, or 6500 Magazine Street, New Orleans, LA 70118;
- f. Comply with pertinent local and state laws concerning the bidding of the work and the expenditure of public funds including, but not limited to, La. R.S. 38:2212, *et seq.*, and provide the City with documentation of the process used in obtaining construction bids;
- g. Assure that the Project is constructed in accordance per the approved A/E design and is in compliance with all local, state and federal codes, permits, licenses, regulations and requirements;
- h. Complete the Project on or before December 2018; and
- i. Submit an invoice to request advance of the funds when required. Within thirty (30) days of the last payment, Audubon will submit all support documentation which includes approved invoice, detailed invoice breakout of completed work procurement documentation, and canceled check for all payments associated with the Project. Audubon should provide a summary sheet outlining the specific funding source for each invoice so that the City can ensure there is not a duplication of benefits.

Section 2. City's Obligations. The City will:

- a. Administer the Agreement through Capital Projects Administration (the "**Department**");
- b. Provide Audubon with documents deemed necessary for the performance of the Project;
- c. Provide Audubon access to Department personnel for the performance of the Project; and
- d. Provide advance of funds when requested.

ARTICLE II - MAXIMUM AMOUNT, ADVANCE, AND REPORTS

Section 1. Maximum Amount. The maximum amount payable under this Agreement is ONE MILLION TWENTY-THREE THOUSAND FOUR HUNDRED SEVENTY-TWO DOLLARS AND EIGHTY-NINE CENTS (\$1,023,472.89).

Section 2. Advanced Funds. The City agrees to advance the Maximum Amount to Audubon for the Projects (the "Advanced Funds"). Audubon must expend the Advanced Funds by the term of the Agreement set forth in Article III. Audubon must return to the City any amount of the Advanced Funds that is unspent at the termination of this Agreement.

Section 3. Progress Reports. Audubon will submit monthly progress reports to the City. Those reports shall contain an accounting of costs to date, a budget of estimated future expenses, and copies of invoices submitted and paid. Audubon's failure to comply with any provisions of Section 2 and the present section will be considered a material breach of this Agreement.

ARTICLE III - TERM

This Agreement will be effective till December 31st of 2018.

ARTICLE IV - NON-DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY

Section 1. Audubon Shall Not Discriminate. In the performance of this Agreement, Audubon agrees not to 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 (A) any employee of or any employee of the City working with Audubon in any of Audubon's operations within Orleans Parish or (B) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Audubon. Audubon 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.

Section 2. Equal Employment Opportunity. Audubon further agrees not to discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against any applicant for employment with Audubon. Further, Audubon agrees to take affirmative action to ensure that that the applicants are considered for employment and that employees are treated during employment without unlawful regard to such person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status. Such action shall include, without limitation, the following areas: employment, promotion, demotion, transfer, or layoff; recruitment or recruitment compensation; and selection for training. Audubon agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Further, Audubon agrees all solicitations or advertisements for employees placed by or on behalf of Audubon shall state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

Section 3. Subcontracts. Audubon shall incorporate by reference in all contracts and subcontracts (including any agreement with Audubon) the provisions of this Article and shall require all contractors and subcontractors to comply with such provisions. Audubon's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

ARTICLE V - INDEMNIFICATION

Section 1. Duty to Indemnify the City Against Loss. To the fullest extent permitted by law, Audubon shall protect, defend, indemnify, and hold harmless the City, its agents, elected officials, and employees (collectively, the "Indemnified Parties") from and against all claims, actions, liabilities, losses (including, without limitation, economic losses), and costs, arising out of or related to any actual or alleged act or omission in the performance of the Services by Audubon or any act outside the scope of the Services by Audubon. By way of illustration, not limitation, Audubon's obligation to indemnify the City shall extend to the following, provided that such claims arise out of or relate to the performance of the Services by Audubon: (i) bodily injury claims, (ii) property damage or loss claims, (iii) fines or sanctions resulting from violations of any law, statute, ordinance, rule, regulation, or intellectual property rights by Audubon, and (iv) liens, claims, or actions made by Audubon or any employees thereof under workers' compensation acts, disability benefits acts, other employee benefit acts, or any statutory bar.

Section 2. Limit on Duty to Indemnify. Notwithstanding anything to the contrary herein, Audubon shall not be required to indemnify the Indemnified Parties for any loss that results from the negligence or willful misconduct of any of the Indemnified Parties, provided that Audubon did not contribute to such gross negligence or willful misconduct.

Section 3. Independent Duty to Defend. Audubon specifically acknowledges and agrees that it has an immediate and independent obligation to, at the City's option, (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this Article V, even if the allegations are or may be groundless, false, or fraudulent. This obligation shall remain in full force and effect even if Audubon is ultimately absolved from liability.

Section 4. Expenses. All expenses, including, without limitation, reasonable attorney fees, incurred by the City in enforcing this Agreement shall be borne by Audubon.

ARTICLE VI - INSURANCE

Section 1. General Requirements. Audubon shall maintain all insurance required to be maintained by it under State policy, including, in particular, the Office of Risk Management.

Section 2. Contractors and Subcontractors. All contractors and subcontractors shall have insurance as required by the Office of Risk Management.

ARTICLE VII - INDEPENDENT CONTRACTOR STATUS

Section 1. Independent Contractor Status. Audubon shall not be deemed an employee, servant, agent, partner, or joint venture of the City. Rather, Audubon herein expressly acknowledges and agrees that it is providing services exclusively as an independent contractor to the City, as such term is defined in La. R.S. 23:1021. As such, Audubon agrees that it shall not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City. Further, Audubon acknowledges and agrees that, as an independent contractor, neither Audubon nor any of its employees shall be entitled to receive any benefits that employees of the City are entitled to receive, including, without limitation, workers' compensation coverage, unemployment compensation coverage, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

Section 2. No Withholding; Form 1099 Reporting. Audubon understands and agrees that (a) the City will not withhold on behalf of Audubon any sums for any federal, state, or local income tax, unemployment insurance, social security, or any other withholding pursuant to any law or requirement of any governmental body, and that the City will not make available to Audubon any of the benefits afforded to employees of the City; (b) all of such withholdings and benefits, if applicable, are the sole responsibility of Audubon; and (c) Audubon will

indemnify and hold the City harmless from any and all loss or liability arising with respect to any such withholdings and benefits. The parties agree that if the Internal Revenue Service questions or challenges Audubon's independent contractor status, both Audubon and the City shall have the right to participate in any discussion or negotiation with the Internal Revenue Service. Audubon acknowledges that all compensation paid to Audubon pursuant to this Agreement will be reported annually by the City to the Internal Revenue Service on Form 1099.

Section 3. No Control of Method of Performing Services. The City is interested only in the results obtained under this Agreement. With regard to Audubon's performance of the Services, nothing herein shall be construed as giving the City control over (a) the manner or method of Audubon's performance or (b) the professional judgment of Audubon with respect such performance. The City waives any rights to direct, instruct, or control Audubon as to the manner in which Audubon achieves the general and specific objectives, except that Audubon agrees to perform the Services in a manner designed to minimize delay, duplication of efforts, redundancy, and expenses, including, without limitation, Audubon's compensation. In sum, Audubon agrees and shall be obligated to perform the Services in the most expeditious and economical manner consistent with the interests of the City.

ARTICLE VIII - GOVERNING LAW, JURISDICTION AND VENUE

Section 1. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Louisiana, without regard to conflicts of law provisions.

Section 2. Exclusive Jurisdiction and Venue. For all claims arising out of or related to this Agreement, Audubon hereby consents and yields to the exclusive jurisdiction and venue of the Civil District Court for the Parish of Orleans and expressly waives any (a) pleas of jurisdiction based upon Audubon's residence and (b) right of removal to federal court based upon diversity of citizenship.

ARTICLE IX - RETENTION, ACCESS, AND OWNERSHIP OF RECORDS

Section 1. Retention. Audubon agrees to keep all such business records related to, or arising out of, this Agreement as would be kept by a reasonably prudent practitioner of Audubon's profession for a period of six (6) years after the termination of this Agreement. All accounting records shall be maintained in accordance with generally accepted principles and practices. In addition, Audubon agrees to comply with Louisiana public records law to the extent applicable.

Section 2. Right to Audit Access. At any time during normal business hours, upon receipt of reasonable notice and as often as the City may deem necessary, Audubon shall make all data, records, reports and all other materials relating to this Agreement available to the City for examination and copying. In addition, Audubon shall permit the City to audit, and shall cooperate fully in any such audit of, all invoices, materials, payrolls, work papers, personnel records, and other data necessary to enable the City to verify the accuracy of Audubon's invoices for payment for the performance of the Services.

Section 3. Ownership. All data collected and all products of work prepared, created, or modified by Audubon in the performance of its obligations under this Agreement, including, without limitation, any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings, or other such material, regardless of form and whether finished or unfinished, (collectively, "**Work Product**") shall become the exclusive property of the City, and no reproduction of any portions of such Work Product may be made in any form without the express written consent of the City. The City shall have all right, title, and interest in such Work Product, including, without limitation, the right to secure and maintain the copyright, trademark and/or patent of Work Product in the name of the City. All such Work Product may be used and distributed for any purpose deemed appropriate by the City without the consent of and for no additional consideration owing to Audubon.

ARTICLE X - TERMINATION

Section 1. Termination for Cause. The City and Audubon shall each have the right to terminate this Agreement for cause, effective immediately upon the giving of written notice to the other party of its intent to terminate and the reasons therefore. If the termination for cause is subsequently challenged in a court of law and if the challenging party prevails, the termination for cause shall be deemed to be a termination for convenience and shall be effective thirty (30) days from the date that the original written notice of termination for cause was given to the challenging party and no further notice shall be required.

Section 2. Termination for Convenience. The City shall have the right to terminate this Agreement without cause by giving Audubon written notice of its intent to terminate at least thirty (30) days prior to the date of termination. In the event that the City elects to terminate for convenience, the City shall be obligated to pay Audubon only for those Services performed up to and through the date of termination, and for any sums owed by Audubon to third parties as a proximate result of the termination, and Audubon shall return any unspent City Funds to the City by the date of termination.

Section 3. Survival of Certain Provisions. All representations and warranties and all responsibilities regarding record retention, access and ownership, cooperation with Office of Inspector General investigations, indemnification and payment for services rendered shall survive the termination of this Agreement and continue in full force and effect.

ARTICLE XI - NOTICE

Section 1. In General. Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or by certified mail, return receipt requested, as follows:

If to the City:

Cedric S. Grant
City of New Orleans
Office of Facilities and Infrastructure
1340 Poydras Street, Suite 1000
New Orleans, LA 70112

With a copy to: City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

If to Audubon:

J. Kelly Duncan
President
Audubon Commission
201 St. Charles Avenue, Floor 48
New Orleans, LA 70170

With a copy to: EVP/Chief Administrative Officer
Audubon Nature Institute
6500 Magazine Street
New Orleans, LA 70118

Section 2. Effectiveness. Notices shall be effective when received by each of the above-referenced individuals at the addresses specified above. Each party shall be responsible for notifying the other in writing that references this Agreement of any changes in the respective addresses set forth above.

Section 3. Routine Communication. Nothing contained in this Article XI shall be construed to restrict the transmission of routine communications between representatives of the City and Audubon.

ARTICLE XII - GENERAL PROVISIONS

Section 1. No Assignment Without Consent. This Agreement is personal to each of the parties hereto, and neither party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party.

Section 2. Conflict of Interest. Audubon agrees to decline any offer of work, whether as an independent contractor or employee, if such work would (a) affect Audubon's independent professional judgment with respect to its performance of the Services or (b) in any way interfere with Audubon's ability to discharge any of its obligations under this Agreement. The initial determination of whether any offer of work would present such a conflict of interest shall rest with Audubon. However, Audubon shall be obligated to notify the City and provide full disclosure as to any possible adverse effects of such work as it relates to Audubon's independent professional judgment or the discharge of any of its obligations under this Agreement. Final decision as to whether any such work proposes a prohibited conflict of interest shall rest with the City.

Section 3. Audit and Other Oversight. It is agreed that Audubon will abide by all provisions of City Code §2-1120, including but not limited to City Code §2-1120(12), which requires Audubon to provide the Office of Inspector General with documents and information relating to this Agreement as requested. Failure to comply with such requests shall constitute a material breach of the contract. In signing this Agreement, Audubon agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

Section 4. 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, any 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.

Section 5. Severability. The parties hereto intend all provisions of this Agreement to be enforced to the fullest extent permitted by law. Accordingly, should a court of competent jurisdiction find any provision to be unenforceable as written, the parties intend and desire that the court should reform the provision so that it is enforceable to the maximum extent permitted by law. If, however, the court should find such provision to be illegal and not subject to reformation, such provision shall be fully severable. In such event, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision was never a part hereof, and the remaining provisions of this Agreement shall remain in full force and effect.

Section 6. Rules of Construction. 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. Whenever herein the singular number is used, the same shall include the plural, where appropriate, and neutral words and words of any gender shall include the neutral and other gender, where appropriate. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved in favor of or against the City or Audubon on the basis of which party drafted the uncertain or ambiguous language. On the contrary, 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 hereto.

Section 7. Amendment. 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.

Section 8. 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 hereto.

Section 9. Time is of the Essence. The City and Audubon each acknowledges and agrees that time is of the essence in the performance of this Agreement.

Section 10. Non-Exclusive. This Agreement shall be non-exclusive. Accordingly, Audubon shall be free to provide services to other clients, and the City shall be free to engage the services of other contractors for the provision of some or all of the Services set forth in this Agreement.

Section 11. Prohibition Against Financial Interest in Agreement. No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this Section, 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 Audubon, 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 Audubon pursuant to this Agreement without regard to Audubon's satisfactory performance of such Services.

Section 12. Prohibition on Political Activity. None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this contract for any partisan political activity, or to further the election or defeat of any candidate for public office.

Section 13. Remedies Cumulative. No remedy set forth in this 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.

Section 14. Complete Agreement. Audubon specifically acknowledges that in entering into and accepting this Agreement, Audubon relies solely upon the representations and agreements contained in this Agreement and no others. This Agreement supersedes and replaces any and all prior agreements, negotiations, and discussions between the parties hereto with regard to the terms, obligations, and conditions herein.

Section 15. Convicted Felon Statement. Audubon swears that it complies with Section 2-8(c) of the Code of the City of New Orleans. No principal, member, or officer of Audubon 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.

Section 16. Non-Solicitation Statement. Audubon swears that it has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the Agreement. Audubon 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 the Agreement.

Section 17. Ownership Interest Disclosure. Audubon shall provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in Audubon and stating that no other person holds an ownership interest in Audubon 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 Audubon fails to submit the required affidavits, the City may, after thirty (30) days' written notice to Audubon, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

Section 18. Subcontractor Reporting. Audubon shall provide a list of all persons, natural or artificial, who are retained by Audubon at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with Audubon's work for the City. In regard to any subcontractor proposed to be retained by Audubon to perform work on the Agreement with the City, Audubon must provide notice to the City within thirty (30) days of retaining said subcontractor. If Audubon fails to submit the required lists and notices, the City may, after thirty (30) days' written notice to Audubon, take such action as may be necessary to cause the suspension of any further payments until such the required lists and notices are submitted.

Section 19. Employee Verification. Audubon swears that (i) it is in compliance with Louisiana Revised Statutes 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 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 Audubon a sworn affidavit verifying compliance with items (i) and (ii) above. Audubon acknowledges and agrees that any violation of the provisions of this paragraph may subject this Agreement to cancellation, and may further result in Audubon being ineligible for any public contract for a period of three years from the date the violation is discovered. Audubon further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the cancellation of this Agreement 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. Audubon 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 Agreement.

[The remainder of this page is intentionally left blank]

[SIGNATURES CONTAINED ON NEXT PAGE]

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

CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU, MAYOR

DATE: _____

FORM AND LEGALITY APPROVED:
Law Department

By: _____

Printed Name: _____

AUDUBON COMMISSION

J. KELLY DUNCAN, PRESIDENT