

K15-136

**COOPERATIVE ENDEAVOR AGREEMENT**

**CITY OF NEW ORLEANS/OFFICE OF INSPECTOR GENERAL**

**AND**

**PAULA PENDARVIS LLC**

**MEDIA CONSULTANT**

**THIS COOPERATIVE ENDEAVOR AGREEMENT** (the "Agreement") is made and entered into on this 30 day of July, 2015 (the "Effective Date"), by and between the City of New Orleans, represented by Mitchell J. Landrieu, Mayor and the Office of Inspector General, represented by Edouard R. Quatrevaux (the "City"), and Paula Pendarvis L.L.C., represented by Paula Pendarvis, (the "Contractor").

**WHEREAS**, pursuant to 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 any public or private corporation, association, or individual with regard to economic development 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 Contractor is a Louisiana limited liability company;

**WHEREAS**, the mission of the Office of Inspector General ("OIG"), is to prevent and detect fraud and abuse, and to promote efficiency and effectiveness in the programs and operations of the City of New Orleans; and

**WHEREAS**, the OIG accomplishes its public service mission by providing factual and analytical information to the public, improving government accountability, and promoting the interests of the citizens of New Orleans; and

**WHEREAS**, City Code Section 2-1120 gives authority to the OIG to evaluate the "activities, records, and individuals" of any entity that has a financial arrangement with city government; and

**WHEREAS**, Paula Pendarvis of Paula Pendarvis LLC has 33 years of experience leading, innovating, producing, planning, writing, researching, budgeting and publicizing local news and original programming, and creating content for corporate and nonprofit clients in the New Orleans area; and

**WHEREAS**, Paula Pendarvis LLC has offered a 20 percent discount off the usual consulting rate due to the public service nature of the proposed work for the Office of Inspector General;

**NOW, THEREFORE**, the City and the Contractor, each having the authority to do so, agree as

follows:

## **I. OBLIGATIONS OF THE PARTIES.**

### **A. Obligations of the Contractor.** The Contractor will:

- a. Continue to develop media strategy for OIG;
- b. Craft multiple, targeted messaging that conveys information.
- c. Monitor for news stories that relate to previous or ongoing OIG projects.
- d. Cultivate media contacts; develop interview opportunities, ideas, and questions; brief interviewer and prepare interviewee for interview.
- e. Produce a quarterly OIG e-blast newsletter.
- f. video production
- g. develop and execute OIG public relations opportunities

### **B. Obligations of the City.** The City will:

1. Make payments in a timely manner based upon receipt of approved deliverables from the Contractor.

## **II. FUNDING/COMPENSATION.**

A total of \$15,000 for ongoing media consulting and increasing social media outreach, for producing 2-5 minute videos of the following: community meeting, background briefing video on the mission and functions of the OIG.

## **III. DURATION.**

This Agreement will be effective for one (1) year from the Effective Date.

## **IV. TERMINATION.**

**A. Termination for Convenience.** Either party may terminate this Agreement at any time by giving thirty (30) days written notice.

## **V. INDEMNITY.**

**A. Duty to Indemnify the City.** To the fullest extent permitted by law, the Contractor will protect, defend, indemnify, and hold harmless the City, its agents, elected officials, and employees (collectively, the "Indemnified Parties") from and against all claims, demands, actions, liabilities, losses (including, without limitation, economic losses), and costs, arising out of or related to (a) any actual or alleged act or omission in the performance of this Agreement by the Contractor, its employees, or any subcontractor or (b) any act outside the scope of this Agreement by the Contractor, its employees, or any subcontractor.

**B. Limit on Duty to Indemnify.** Notwithstanding anything in this Agreement to the

contrary, the Contractor is not required to indemnify the Indemnified Parties for any loss that results from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that the Contractor or any subcontractor did not contribute to such gross negligence or willful misconduct.

**C. Independent Duty to Defend.** Notwithstanding anything in this Agreement to the contrary, the Contractor, at its option, will immediately defend the City from, or reimburse the City for the City's costs incurred in the defense of, any claim that actually or potentially falls within the scope of this indemnity, even if the claim is groundless, false, or fraudulent, or if the Contractor is absolved of liability.

**D. Expenses.** The Contractor will bear all expenses, including without limitation reasonable attorney fees, of the City in enforcing the terms of this article.

## **VI. NON-DISCRIMINATION.**

**A. Non-Discrimination in Employment.** With regard to any hiring or employment decision made in connection with the performance of this Agreement, including without limitation employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other compensation, and selection for training including apprenticeship, the Contractor:

1. Will not discriminate or retaliate, in fact or in perception, against any employee or person seeking employment on the basis of race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status;
2. Will take affirmative action to ensure compliance with this section;
3. Will include statements in all solicitations or advertisements for employment that all qualified applicants will receive consideration for employment without regard to race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status;
4. Will post notices containing the provisions of this section in conspicuous places available to employees and persons seeking employment.

**B. Non-Discrimination.** In the performance of this Agreement, the Contractor:

1. Will not discriminate or retaliate, in fact or in perception, on the basis of race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status against: any employee of the City; any employee of any person working on behalf of the City; or any person seeking accommodation, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor.
2. Will comply with and abide all federal, state, and local laws relating to non-discrimination, including without limitation Title VII of the Civil Rights Act of 1964, as amended,

Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. **Subcontracts.** The Contractor will incorporate the provisions of this Article by reference into all subcontracts relating to the performance of this Agreement.

#### VII. NOTICES.

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:

Suzanne Lacey Wisdom, General Counsel  
Office of Inspector General/City of New Orleans  
525 St. Charles Ave.  
New Orleans, LA 70130

2. To the Contractor:

Paula A. Pendarvis-Milham  
325 West Honors Point Court  
Slidell, LA 70458

3. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery. Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

#### VIII. MISCELLANEOUS PROVISIONS.

A. **Ownership of Documents.** All data collected and all products of work prepared, created, or modified by the Contractor in the performance 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") are 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 all 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. This City may use or distribute all Work Product for any purpose without the consent of and for no additional consideration owing to the Contractor.

B. **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, including through any financial interest held by the spouse, child, or parent. Any willful violation of this provision, with the expressed or implied knowledge of the Contractor, will 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 the Contractor pursuant to this Agreement without regard to the Contractor's satisfactory performance.

**C. 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 Agreement. 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 Agreement.

**D. Convicted Felon Statement.** The Contractor swears that it complies with City Code § 2-8(c). No principal, member, or officer of the Contractor has 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 in the past five years.

**E. Audit and Other Oversight.** The Contractor will abide by all provisions of City Code §2-1120, including without limitation City Code § 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 is a material breach of the Agreement. In signing this Agreement, the Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

**F. Ownership Interest Disclosure.** The Contractor will provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor 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 the Contractor fails to submit the required affidavits, the City may, after thirty (30) days' written notice to the Contractor, suspend or cause the suspension of any further payments until the required affidavits are submitted.

**G. Subcontractor Reporting.** The Contractor will provide a list of all persons, natural or artificial, 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. In regard to 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 said 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 such action as may be necessary to cause the suspension of any further payments until such the required lists and notices are submitted.

**H. Employee Verification.** The Contractor swears that (i) it is in compliance with La. R.S. 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 will 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 will require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. The Contractor acknowledges and agrees that any violation of this paragraph

may subject this Agreement to cancellation and may result in the Contractor being ineligible for any public contract for a period of three years from the date the violation is discovered. The Contractor will be liable for any 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. The Contractor agrees to provide to the City a sworn affidavit attesting to these provisions if requested by the City to do so; the City may cancel the Agreement if the Contractor fails to provide the requested affidavit.

**I. Non-Exclusivity for the City.** The City shall be free to engage the services of other persons for the performance of some or all of the obligations contemplated this Agreement.

**J. Acknowledgment of Exclusion of Worker's Compensation Coverage.** The Contractor expressly agrees and acknowledges that it is an independent contractor as defined in La. R.S. 23:1021 and as such, it is expressly agreed and understood between the parties hereto, in entering into this services agreement, that the City shall not be liable to the Contractor for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of La. R.S. 23:1034, anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Workers' Compensation coverage.

**K. Acknowledgment of Exclusion of Unemployment Compensation Coverage.** The Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this Agreement for hire as noted and defined in La. R.S. 23:1472(E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this services agreement, or agreement for hire, and in connection with unemployment compensation only, that:

1. 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; and
2. Services to be performed by the Contractor are outside the normal course and scope of the City's usual business; and
3. The Contractor has been independently engaged in performing the services listed herein prior to the date of this agreement.

Consequently, neither the Contractor nor anyone employed by the Contractor shall be considered an employee of the City for the purpose of unemployment compensation coverage, which is expressly waived and excluded.

**L. Waiver of Benefits.** The City and the Contractor agree and understand that the Contractor, acting as an independent agent, shall not receive any sick and annual leave, health or life insurance, pension, or other benefits from the City.

**M. Jurisdiction.** The Contractor consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas of jurisdiction on account of the residence elsewhere.

**N. Governing Law.** Any dispute arising from or relating to this Agreement or the performance of any obligations under this Agreement shall be resolved in accordance with the laws of the State of Louisiana.

**O. Rules of Construction.** 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. 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. The singular number includes the plural, where appropriate. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved in favor of or against either party on the basis of which party drafted the language.

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

**Q. Survival of Provisions.** All representations and warranties and all responsibilities regarding record retention, access, and ownership, cooperation with Office of Inspector General investigations, and indemnification shall survive the termination of this Agreement and continue in full force and effect.

**R. No Third-Party Beneficiaries.** This Agreement is entered into for the exclusive benefit of the City and the Contractor, and the parties expressly disclaim any intent to benefit any person that is not a party to this Agreement.

**S. 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 shall not affect or be deemed a waiver of any party's right to insist upon compliance with the terms and conditions of the Agreement, to exercise any rights, or to seek any available remedy with respect to any default, breach, or defective performance.

**T. Agreement Binding.** This Agreement is not assignable by either party unless authorized by a validly executed amendment.

**U. Modifications.** This Agreement shall not be modified except by written amendment executed by authorized representatives of the parties.

**V. Voluntary Execution.** The Contractor has read and fully understands the terms, covenants and conditions set forth in this Agreement and is executing the same willingly and voluntarily of its own volition.

**W. Complete Agreement.** This Agreement supersedes and replaces any and all prior agreements, negotiations, and discussions between the parties with regard to the terms, obligations, and conditions of this Agreement.

**SIGNATURES ON FOLLOWING PAGE**

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

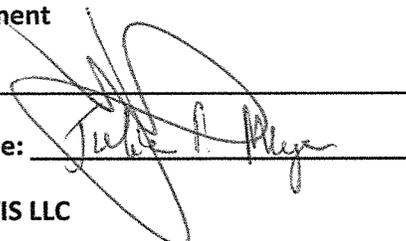
**CITY OF NEW ORLEANS**

BY:  7/30/15

**MITCHELL J. LANDRIEU, MAYOR**

**FORM AND LEGALITY APPROVED:**

Law Department

By: 

Printed Name: Julie A. Meyer

**PAULA PNDARVIS LLC**

BY:   
**PAULA PNDARVIS-MILHAM**