ADDENDUM TO PURCHASE ORDER

LOBBYING CONSULTING SERVICES

THIS ADDENDUM TO THE ATTACHED PURCHASE ORDER ("Addendum") is entered into on the date of the attached Purchase Order ("Effective Date"), between the **CITY OF HOUSTON, TEXAS** ("City"), a home-rule municipality of the State of Texas and **KOENNING CONSULTING, LLC**, with principal offices at P.O. Box 70073, Houston TX 77270 ("Consultant"). The City and Consultant are referred to collectively as the "Parties" and individually as a "Party."

1. This Addendum shall control over and override all terms and conditions of the attached Purchase Order, as well as those of any written specifications, statement of work, work write-up, or other project plan, that conflict or are inconsistent with this Addendum, and this Addendum is hereby substituted for any such conflicting or inconsistent term or condition. No other term or condition in any such or other document relating to the subject matter hereof may or shall amend, modify, conflict with, or diminish any term or condition of this Addendum, and any such term or condition is and shall be void and unenforceable.

2. Consultant shall provide professional lobbying, public relations and marketing consulting services ("Services") to City for the flat rate of $7,500 per month for a total of 6 months. The Services are more fully described as follows:

   Work with the Mayor, City Council, and the Director or designee of the Mayor's Office of Intergovernmental Relations ("Director") to identify and prepare potential proactive legislation, assist in tracking adverse legislation, advocate and advance the City's position on legislation, further develop relationships with members of the Houston delegation and work with City Council members to develop a system of personal contacts and grassroots support throughout the legislative process.

   Subject to all terms and conditions of this Addendum, the City shall pay Consultant on the basis of invoices submitted by Consultant and approved by the Director showing (1) a description of the services performed during the period covered by the invoice and (2) the amount the Consultant requests for payment. The City shall make payments to Consultant at its address for notices within 30 days of receipt of an approved invoice. If the City disputes any item in an invoice Consultant submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Consultant of the dispute and request remedial action. After any dispute is settled, Consultant shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

3. Consultant represents that all the Services shall be provided for a fee not to exceed

$45,000.00 (inclusive of all fees, costs, and expenses). The City shall have no obligation to pay any sum greater than **$45,000.00** ("the Maximum Compensation") for Services described herein, notwithstanding the total number of hours the Consultant spends to provide all Services described in this Addendum.

4. If an actual or potential conflict arises between the City's interests and the interests of other clients Consultant represents, Consultant shall immediately notify the Director and Mayor by email and telephone. If the Director consents to Consultant's continued representation of the other clients, he or she shall notify Consultant in writing. If the Director does not issue written consent within 3 business days after receipt of Consultant's notice, Consultant shall immediately terminate its representation of the other client whose interests are or may be in conflict with those of the City.

5. Ownership and Use of Documents

   a. Consultant conveys and assigns to the City its entire interest and full ownership worldwide in and to any work, invention, notes, plans, computations, data bases, tabulations, exhibits, reports, underlying data, photographs and other work products, and any modifications or improvements to them (collectively "Documents"), and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively "Proprietary Rights") that Consultant, its agents, employees, Consultants, and subcontractors (collectively "Authors") develop, write, or produce under this Addendum (the "Works").

   b. The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by the Director, Consultant shall place a conspicuous notation on any Works which indicates that the City owns the Proprietary Rights.

   c. Consultant shall execute all documents required by the Director to further evidence this assignment and ownership. Consultant shall cooperate with the City in registering, creating, and enforcing Proprietary Rights arising under this Addendum. If Consultant's assistance is requested and rendered under this Section, the City shall reimburse Consultant for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Addendum, or if requested by the Director, Consultant shall deliver all Works to the City. Consultant shall obtain written agreements from the Authors which bind them to the terms in this Section.

   d. All Works developed, written, or produced under this Addendum for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are "works made for hire."

e. Consultant may retain copies of the Documents for its archives. Consultant shall not otherwise use, sell, license, or market the Documents.

6. **RELEASE AND INDEMNIFICATION.** The City and Consultant agree that in addition to the INDEMNIFICATION provision set forth in the Purchase Order the Consultant shall release and indemnify the City as follows:

a. **RELEASE. EXCEPT FOR THE CITY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, CONSULTANT AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS ADDENDUM. CONSULTANT HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS ADDENDUM.**

b. **RELEASE AND INDEMNIFICATION OF PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT**

(i) **CONSULTANT AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONSULTANT, ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONSULTANT FURNISHES DURING THE TERM OF THIS ADDENDUM INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONSULTANT SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.**

(ii) **CONSULTANT SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.**

(iii) **WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONSULTANT SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING**

THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONSULTANT SHALL REFUND THE PURCHASE PRICE.

c. **SUBCONSULTANT'S INDEMNITY. CONSULTANT SHALL REQUIRE ALL OF ITS SUBCONSULTANTS (AND THEIR SUBCONSULTANTS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.**

7. The attached Purchase Order, along with any written specifications or work write-ups, and this Addendum contain all the agreements between the parties relating to the subject matter hereof and are the full and final expression of the agreement between the parties.

8. The Director of the Mayor's Office of Intergovernmental Relations may terminate this Addendum and the Purchase Order at any time, with or without cause, upon thirty (30) days' notice in writing to the Consultant. Upon receipt of such notice, Consultant shall discontinue all Services in connection with the performance of the attached Purchase Order. As soon as practicable after receipt of notice of termination, Consultant shall submit a statement to the Director showing in detail the services performed under the Purchase Order to date of termination, and not paid for. The City agrees to pay such charges for Services satisfactory performed and accepted up to the amount of the Maximum Compensation.

9. This Addendum may be executed in multiple copies, each of which shall be an original. This Addendum shall not be effective or binding until it is signed by all signatories.

APPROVED:
CITY OF HOUSTON

Director, Mayor's Office of Intergovernmental Relations
Date: 3/3/20

AGREED AND ACCEPTED:
KOENNING CONSULTING, LLC

DocuSigned by:
Court Koenning
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By: Court Koenning

Date: 3/3/2020