FIRST AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT

PROJECT NAME: RIVER BARGE DESIGN

This First Amendment to the Professional Services Agreement, executed effective the date last written below (the "***Amendment***"), is entered into by and between the City of San Antonio ("***City***") and Metalab, LLC ("***Consultant***").

WHEREAS, on April 28, 2016, the City and Consultant entered into that certain Professional Services Agreement (the "***Agreement***"), wherein City engaged Consultant to provide design services for the San Antonio River Barges (the "*Project*") in an amount of Three Hundred Ninety-nine Thousand Two Hundred Twelve and No/100 Dollars ($399,212.00); and

WHEREAS, the City desires Consultant to provide additional design services; and

WHEREAS, pursuant to Articles XVI and XXVI of the Agreement, City and Consultant now desire to make certain modifications to the Agreement as hereinafter set forth.

NOW THEREFORE, in consideration of the mutual promises set forth in this Amendment and Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. City agrees to increase the pay to Consultant by Fifty-five Thousand Seventy and No/100 Dollars ($55,070.00), for a total compensation amount not to exceed Four Hundred Fifty-four Thousand Two Hundred Eighty-two and No/100 Dollars ($454,282.00).

2. Section 4.1 of Article IV (Compensation to Consultant) is deleted in its entirety and replaced with the following:

> "In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed $454,282.00 as total compensation. Consultant shall submit monthly Applications for Payment to City, as defined in Exhibit C. Payments will be contingent upon Consultant's certification that work has progressed to the point indicated and proof that Consultant is entitled to payment in the amount requested."

3. Exhibit "A" (Scope of Services) is deleted in its entirety and replaced with the amended attachment affixed hereto and incorporated by reference herein as Amended Exhibit "A".

4. This Amendment shall not prejudice any present or future rights, remedies, benefits, or powers belonging or accruing to City under the terms of the Agreement herein amended.

5. City and Consultant intend and agree that all other terms and conditions of the Agreement, not expressly amended by this Amendment, shall remain in full force and effect. If there is a conflict between the terms of this Amendment and the Agreement, the terms and conditions of this Amendment shall control.

6. This Amendment and the Agreement, including any exhibits or attachments cited herein and therein, constitute the entire agreement between City and Consultant regarding the subject matter hereof, and supersede all prior contemporaneous agreements or understandings, whether written or oral.

7. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail 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.

[*Signature page to follow.*]

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as of the date last written below.

CITY OF SAN ANTONIO,
a Texas municipal corporation

By:_____
JOHN JACKS
Interim Director
Center City Development & Operations Department

Date: _____

METALAB, LLC,
a Texas for-profit corporation

By:_____
JOE MEPPELINK
President

Date: 11/18/16

APPROVED TO FORM:

By:_____
STEPHEN T. WHITWORTH
Assistant City Attorney

ATTACHMENT:
Amended Exhibit "A" – Scope of Services

AMENDED EXHIBIT "A" – SCOPE OF SERVICE

Consultant understands and agrees that time is of the essence under this Agreement and it shall undertake all its required services under this Agreement in order to help the City achieve the delivery of a fleet of barges no later than September 1, 2017.

Pre-solicitation

No later than July 1, 2016, Consultant shall deliver detailed design specifications ("Fabrication Documents), including the Boat Specifications defining materials, hardware, and performance criteria for the construction of barges based on its designs submitted as part of the design competition ("Competition Submittals"). The Competition Submittals are attached hereto as Attachment B. In the event there is a need to issue addenda to the Fabrication Documents based upon observed performance and feedback from the prototype vessel, Consultant shall issue such addenda no later than August 31st.

The Fabrication Documents shall be in such form and content as will, in the judgment of City be sufficient for the solicitation for the fabrication of barges for use in providing concession services on the San Antonio River. Consultant shall coordinate with any other necessary consultants as relates to the creation of the Fabrication Documents.

Such designs shall be compliant with all applicable federal, state, and local laws for the manufacture of boats to be used with commercial passengers.

Consultant shall make such corrections and modifications to the specifications as requested by City consistent with its professional judgment.

Prototype Barge

Consultant shall deliver to City a working prototype barge no later than July 28, 2016. Because City's damages from such a breach would be difficult to estimate or quantify, Consultant accepts the amount of $5,000.00 as a reasonable, negotiated estimate of City's damages. In addition, if the prototype is not delivered before October 1, 2016, Consultant accepts the amount of $5,000.00 as a reasonable, negotiated estimate of City's further damages for a total $10,000.00 in liquidated damages for late delivery of the prototype. The prototype shall, at a minimum, have the following accessories: 1) group tour seating; 2) group dining table and accessories; 3) cocktail cruse tables; 4) fixed and swiveling center seating; and 5) all necessary hardware for the above components.

Consultant shall have such barge launched on the San Antonio River in a place of City's choosing.

Consultant shall coordinate with and pay independent manufacturers for the component portions of the barge. City shall reimburse Consultant for the payments to such manufacturers. Consultant shall, along with City, conduct extensive testing of a test barge in to ensure for compliance with the specifications, the needs of the City and its concessionaire in providing services to the public on the barges and the final aesthetic appearance of the barges as delivered. Consultant shall provide modifications to the specifications as needed to correct any issues that arise in such review and shall coordinate with the City in the publication of the modifications as part of the Solicitation for Fabrication.

Services Related to Solicitation for Fabrication

1. Consultant shall review and provide feedback on the solicitation document before its release.
2. Consultant shall assist City in identifying qualified Manufacturers to be solicited for the fabrication of the barges.
3. Consultant shall review and offer comments all submittals received to the solicitation for fabrication.
4. Consultant shall provide its professional opinion regarding the quality and responsiveness of any submittals.
5. Consultant hereby agrees that all information it receives (solicitations, proposals, discussions during all meetings) are confidential and cannot be disclosed outside the City's evaluation team, and City management personnel and City Attorney's Office).

Evaluation of City Marinas for Compatibility With Consultants Designs

Consultant shall conduct up to (2) on site reviews of the City's existing marina facilities and shall provide information as requested to coordinate with professional consultants (architect, electrical engineer, etc.) for the retrofitting of the marina to accommodate the electric fleet and its requirements for charging and maintenance.

Further Evaluation of Barges Delivered from Manufacturer

Consultant shall assist City in inspecting and assessing all other barges delivered to City for compliance with the fabrication contract and the design specifications.

Minimum Requirements for Design of the Barges:

1. All-electric, battery-powered.
2. Motor propulsion shall be outboard and concealed as per the design proposal inboard.
3. Shall be designed to last 15-20 years with proper maintenance to be defined in a maintenance manual to be provided by the manufacturer with assistance from Consultant. Exception: electric battery storage and propulsion systems shall be covered by manufacturer's warranty terms for a lifespan as defined by that manufacturer. Consultant

shall design toward a not-to-exceed budget for full fleet manufacturing of $65,000 per boat, and shall inform the City of projected cost over-runs along with recommendations to remedy such over-runs by modifying the scope of work, quality, quantity, and/or functionality as defined herein.

4. Accommodations for disabled riders, including companion seating for riders in wheelchairs.
5. Accommodations for commuters.
6. Accommodate up to 40 passengers per barge tour.
7. Accommodations for dining and other events.
8. Ability to traverse through the lock with a barge size no larger than 9 feet by 28 feet.
9. Provides a safe ride with minimal wake.
10. Complements City of San Antonio branding.
11. Operate under maximum load for a minimum of 12 hours on a single charge.
12. Be capable of being fully recharged within 10 hours.

Miscellaneous River Boat Design Revisions – not to exceed $3,000.00

1. Fabrication Documents and Boat Specifications: Address all feedback as it relates to final barge design and incorporate as addenda to the fabrication documents and/or specifications.

2. Boat specifications: Update and reissue specifications that were altered by any changes to the fabrication documents

BETA Barge Feedback, Coordination, and Design Assist – not to exceed $24,070.00

1. Travel: Travel to Lake Assault facility as needed to oversee production of BETA barge.

2. Fabrication Documents: Address all feedback as it relates to the BETA barge. All scope items agreed upon by the City will be incorporated as addenda to the fabrication documents and/or specifications.

3. Boat specifications: Update and reissue specifications that were altered by any changes to the fabrication documents.

4. Consultant Coordination: Coordinate all necessary consultants as it relates to creation of the addenda to the Fabrication Documents and/or specifications.

5. Technical Advisory: Be available for an on-water test of the BETA barge at Lake Assault facility and onsite in San Antonio for a 3-day workshop with the City, Lake Assault and other stakeholders as determined by City. Metalab staff to address issues as they arise and advise City as to appropriate revisions to be incorporated.

6. Fee Schedule:
    i. $19,200.00 – Fixed Professional Services Fee Design & Fabrication Documents
    ii. $ 900.00 – Printing Reimbursable Expense (Not to Exceed)
    iii. $ 3,144.00 – Travel Reimbursable Expense (Not to Exceed)

Railing Pattern Design – not to exceed $28,000.00

1. METALAB proposal includes four "papel picado" designs by METALAB, subject to review, feedback and approval by City.

2. Create additional "Branded" railing designs, assuming coordinating with third party graphic design consultant and/or brand management teams to be billed at a fee of $8,000.00 per design.

3. Fabrication Documents: Drawings to be created and issued as addenda to selected fleet manufacturer.

4. Boat Specifications: A color selection for each railing pattern will be completed and added to project specifications.

5. Consultant Coordination: Coordinate all necessary consultants as it relates to creation of the final railing Fabrication Documents.

6. Fee Schedule:
    i. $8,000.00 per "Branded" design, up to 2 additional "Branded" designs
    ii. $4,000.00 per design, to substitute one "papel picado" design with one "Branded" design