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**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN  
THE CITY OF NEW ORLEANS  
AND  
BRUNO AND TERVALON**

**THIS AGREEMENT** is made and entered into as of the 1st day of January 2010 by and between the Council of the City of New Orleans, represented by Arnie Fielkow, President of the Council (hereinafter referred to as "City") and the firm of **Bruno and Tervalon** (hereinafter referred to as "Contractor").

**WITNESSETH**

**WHEREAS**, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected Bruno and Tervalon in accordance with the competitive selection process required by the Home Rule Charter; and

**WHEREAS**, pursuant to Rule 45, the City Council adopted Motion M-09-459, directing the Council staff to issue a Request for Qualifications to initiate a competitive selection process to obtain consultants with expertise essential to assisting the Council in effectuating its regulatory authority over electric and gas utilities in New Orleans; and

**WHEREAS**, a Request for Qualifications relative to electric and gas regulatory services was issued on September 4, 2009 and re-issued on October 20, 2009; and

**WHEREAS**, responses to the Request for Qualifications were reviewed by the Staff Selection Review Committee on October 20, 2009 and on November 9, 2009, the Council Utility Committee met and recommended that the City Council approved the selection of Sonnenschein Nath & Rosenthal, L.L.P., Wilkerson & Henry, L.L.C., Legend Consulting Group Limited, Bruno and Tervalon, L.L.P., and Paillet, Meunier & LeBlanc, L.L.P. be retained to provide electric and/or natural gas regulatory consulting services to the City Council; and

1           **WHEREAS**, by Motion M-09-645 the City Council approved the recommendation of the  
2 Council Utilities Committee that the Accounting Firm of Bruno and Tervalon, L.L.P. be retained to  
3 provide utility consulting services in the area of the Council's electric and gas regulatory  
4 responsibility; and

5           **WHEREAS**, the Council by Motion M-09-675 authorized the President of the Council to  
6 sign a professional service contract with the firm of Bruno and Tervalon, L.L.P. for the contract  
7 amount as specified herein; and

8           **WHEREAS**, the firm of Bruno and Tervalon is herein represented by Michael B. Bruno,  
9 Managing Partner as authorized by letter to enter into agreement on behalf of the firm of Bruno and  
10 Tervalon;

11           **NOW, THEREFORE**, the City of New Orleans and the firm of Bruno and Tervalon for the  
12 consideration, and under conditions set forth, do agree as follows:

13           **I.       SCOPE OF SERVICES**

14           **A.       Contractor Agrees To:**

15                   Provide accounting, analytical, audit and management advisory services to the  
16 Council as necessary in local, state and federal regulatory and legislative matters in  
17 respect to the electric and natural gas utilities and suppliers providing services in  
18 New Orleans, including but not limited to Entergy, its unregulated subsidiaries and  
19 its regulated operating subsidiaries; Entergy Louisiana, Inc; and Entergy New  
20 Orleans, Inc.; as may be required from time to time by the City Council, and its  
21 staff.

22           **B.       The City Agrees To:**

- 23                   1.       Provide contract administration through the City Council Utilities  
24                   Regulatory Office.

1           2.     Provide access to records, documents and other information as may be  
2                     required. Additional support and information may be directed to the Council  
3                     Utilities Regulatory Office.

4     **II.   COMPENSATION**

5           The compensation to be paid for services rendered will be at the hourly billing rate  
6     of:

7           Partners	up to \$180.00
8           Managers	up to \$150.00
9           Other Professionals	up to \$100.00
10          Support Staff	up to \$ 45.00

11          The compensation to be paid to the firm of Bruno and Tervalon, L.L.P. for such services  
12          shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). If there are any  
13          necessary and ordinary expenses attached to the work of the firm of Bruno and Tervalon  
14          these expenses, in addition to the fees outlined above, shall be reimbursable by the City but  
15          the total amount of such expenses and fees shall not exceed Two Hundred Fifty Thousand  
16          Dollars (\$250,000.00). The firm of Bruno and Tervalon, L.L.P. shall submit to the City a  
17          detailed monthly invoice for payment of services provided. The firm of Bruno and  
18          Tervalon, L.L.P. work shall be detailed in increments of one-tenth of an hour. This  
19          agreement is contingent upon the appropriation and allocation of funds by the City of New  
20          Orleans.

21     **III.   PAYMENT**

22          Payment under this agreement shall be made pursuant to detailed monthly invoices  
23          submitted by the firm, subject to review and approval by the City for payment. Upon  
24          authorization through the City Council Utilities Regulatory Office such invoices may be

1 submitted to the Finance Department for payment by the City or, alternatively, when such  
2 invoices would be reimbursable by a utility subject to regulation under Section 3-130 of the  
3 Home Rule Charter and reimbursable pursuant to Section 3-130 (5) of the Home Rule  
4 Charter, the City Council Utilities Regulatory Office may submit such invoices for payment  
5 to such regulated utility company. Payments in the name of the firm under this provision  
6 shall then be sent to the Council Utilities Regulatory Office which shall immediately  
7 forward such authorized payment to the firm. The Council Utilities Regulatory Office shall  
8 maintain records of such payments which shall be public records and shall also forward  
9 copies of such records as required to the CAO and Department of Finance. Such payments,  
10 when made by such utility company through the City Council's Utilities Regulatory Office  
11 shall fully discharge the City's obligation for such payment under this contract and be  
12 included in and applied to the maximum compensation limits of this contract. Pursuant to  
13 Motion M-09-675 such payments shall be recoverable as regulatory expense by such utility  
14 in the same manner as reimbursements to the City for such payments pursuant to Section 3-  
15 130 (5) of the Home Rule Charter.

16 **IV. EQUAL EMPLOYMENT OPPORTUNITY**

17 In all hiring or employment made possible by or resulting from this Contract, there  
18 (1) will not be any discrimination against any employee or applicant for employment  
19 because of race, color, religion, gender, age, physical or mental disability, national  
20 origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable,  
21 affirmative action will be taken to ensure that the Contractor's employees are treated  
22 during employment without regard to their race, color, religion, gender, age,  
23 physical or mental disability, national origin, sexual orientation, creed, culture, or  
24 ancestry. This requirement shall apply to, but not be limited to the following:

1 employment, upgrading, demotion, or transfer; recruitment or recruitment  
2 advertising; layoff or termination; rates of pay or other forms of compensation; and  
3 selection for training, including apprenticeship. All solicitations or advertisements  
4 for employees shall state that all qualified applicants will receive consideration for  
5 employment without regard to race, color, religion, gender, age, physical or mental  
6 disability, national origin, sexual orientation, creed, culture, or ancestry.

7 **V. ASSIGNABILITY**

8 The Contractor shall not assign any interest in this Contract, and shall not transfer  
9 any interest in the same without prior written consent of the City of New Orleans.

10 **VI. CONFLICT OF INTEREST**

11 In the interest of ensuring that efforts of the Contractor do not conflict with the  
12 interest of the City, and in recognition of Contractor's professional responsibility to  
13 the City, the Contractor agrees to decline any offer of employment if its  
14 independent, professional work on behalf of the City is likely to be adversely  
15 affected by the acceptance of such employment. The initial determination of such a  
16 possibility rests with the Contractor. It is incumbent upon the Contractor to notify  
17 the City and provide full disclosure of the possible effects of such employment on  
18 the Contractor's independent, professional work in behalf of the City. Final decision  
19 on any disputed offers of other employment for the Contractor shall rest with the  
20 City.

21 **VII. INDEMNIFICATION**

22 The Contractor shall indemnify and save harmless the City of New Orleans against  
23 any and all claims, demands, suits, judgments of sum of money to any party  
24 accruing against the City for loss of life or injury or damage to persons or property

1 growing out of, resulting from, or by reason of any act of omission of the operation  
2 of the Contractor, his agents, servants or employees while engaged in or about or in  
3 connection with the discharge or performance of the services to be done or  
4 performed by the Contractor hereunder, and shall also hold the City harmless from  
5 any and all claims and/or liens for labor, services, or materials furnished to the  
6 Contractor in connection with the performance of its obligation under this  
7 Agreement.

8 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S**

9 **COMPENSATION COVERAGE**

10 The Contractor herein expressly agrees and acknowledges that it is an independent  
11 Contractor as defined in R. S. 23:1021 (6) and as such, it is expressly agreed and  
12 understood between the parties hereto, in entering into this professional services  
13 contract, that the City of New Orleans shall not be liable to the Contractor for any  
14 benefits or coverage as provided by the Worker's Compensation Law of the State of  
15 Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by  
16 the Contractor shall not be considered an employee of the City for the purpose of  
17 Worker's Compensation Coverage.

18 **IX. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**

19 **COMPENSATION COVERAGE**

20 The Contractor herein expressly declares and acknowledges that it is an independent  
21 contractor and as such is being hired by the City under this contract of hire as noted and  
22 defined in R.S. 23:1472 (E); and, therefore, it is expressly declared and understood between  
23 the parties hereto, in entering into this professional services contract or contract for hire, and  
24 in connection with unemployment compensation in coverage only, that:

1 A. The Contractor has been and will be free from any control or  
2 direction by the City, over the performance of the services covered  
3 by this contract; and

4 B. Service(s) to be rendered by the Contractor are outside the normal  
5 course and scope of the City's usual business; and

6 C. The Contractor has been independently engaged in performing  
7 services listed herein prior to the date of this contract.

8 Consequently, neither the Contractor nor anyone employed by the Contractor shall be  
9 considered an employee of the City for the purpose of unemployment compensation  
10 coverage, the same being hereby expressly waived and excluded by the parties hereto.

11 **X. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS**

12 It is expressly agreed to and understood between the parties entering into this  
13 professional services contract that the Contractor, acting as an independent agent,  
14 and its agents assigned and employees shall not receive any sick and annual leave  
15 benefits from the City of New Orleans.

16 **XI. JURISDICTION**

17 The undersigned Contractor does further hereby consent and yield to the jurisdiction of the  
18 State Civil Courts of the Parish of Orleans and does hereby formally waive any pleas of  
19 jurisdiction on account of residence elsewhere of the undersigned Contractor.

20 **XII. DURATION OF AGREEMENT**

21 The services to be provided under the terms of this Agreement shall begin on  
22 January 1, 2010 and shall end no later than December 31, 2010. It is understood and  
23 acknowledged by all signators to this Agreement that work described under these  
24 terms is to be accomplished during the time period specified herein. The terms,

1 conditions and duration of this contract may be modified by an executed, written  
2 amendment to this contract.

3 **XIII. EXTENSION**

4 This agreement may be extended at the option of the City, provided that funds are allocated  
5 by the Council of the City of New Orleans and the extensions of the agreement facilitates  
6 the continuity of services provided herein. This agreement may be approved for the  
7 negotiation of one year contracts renewable on an annual basis for a total period of up to  
8 five years.

9 **XIV. CANCELLATION**

10 Either party of this contract may terminate the contract at any time during the term  
11 of the contract by giving the other party written notice of said intention to terminate  
12 at least thirty (30) days before the date of termination.

13 **XV. SOLICITATION**

14 The Contractor has not employed or retained any company or person, other than a bona fide  
15 employee working solely for him, to solicit or secure the subject contract. The Contractor  
16 has not paid or agreed to pay any person, other than a bona fide employee working from  
17 him, any fee, commission, percentage, gift, or any other or consideration contingent upon or  
18 resulting from the subject contract.

19 **XVI. OFFICE OF INSPECTOR GENERAL**

20 The Contractor understands and will abide by all provisions of the Code of the City of New  
21 Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888  
22 M.C.S., (relative to the operations and authority of the City Inspector General), incorporated  
23 herein by reference.



1 **XVII. SUBCONTRACTS**

2 Any and all subcontracts by the Contractor relating to work under this contract shall be  
3 approved in advance by motion of the Council. The Council may require information on  
4 ownership interests in the subcontractor prior to approval of the subcontractor's retention.  
5 Contractor shall incorporate by reference in all subcontracts the provisions of this Article  
6 and shall require all subcontractors to comply with such provisions. Contractor's failure to  
7 comply with the obligations in this subsection shall constitute a material breach of this  
8 Agreement.

9 **XVIII. EXPENSES**

10 Unless otherwise approved by the Contracting Officer of the City Council, reimbursable  
11 expenses shall be limited as follows: meals at reasonable and customary costs for the city in  
12 which they are consumed absent charges for alcoholic beverages, air transportation limited  
13 to lowest available coach fares at the time of booking, lodging expenses in New Orleans not  
14 to exceed federal per diem rate for hotels in New Orleans to the extent achievable without  
15 an official governmental identification for the personnel; postage, overnight delivery or  
16 courier services at contractor's actual cost; facsimile transmissions and long distance  
17 telephone charges at contractor's actual cost; copies at \$0.10 per page; computerized  
18 research at contractor's actual cost.

19 **XIX. LIMITATIONS**

20 For the attendance at all meetings of the Council, the CUC, briefings of Councilmembers,  
21 and representation before any court or regulatory body and during the conduct of regulatory  
22 proceedings before the Council and other regulatory bodies, the Council will only provide  
23 labor fee reimbursement for one consultant from any applicable firm, unless otherwise  
24 specifically approved by the Contracting Officer of the City Council. Contractor further

1 agrees to avoid the unnecessary duplication of personnel and costs in the performance of  
2 services under this agreement and accordingly, shall staff all assignments with only  
3 qualified and experienced personnel so as to only charge for the minimum number of  
4 personnel and incur the least costs reasonably necessary to perform the assignments.

5 **XX. SEVERABILITY**

6 In the event a Court of competent jurisdiction finds any clause or provisions pertaining to  
7 the retention of Contractor invalid, unless said Court expressly states otherwise, said  
8 findings shall not affect Contractor's right to continue providing utility-related legal services  
9 to the City with respect to any clause or provision not found to be invalid.

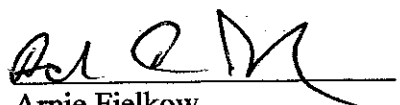
10 For the consideration and under the conditions set forth above, the Contractor has agreed to perform  
11 the specified services for the City of New Orleans.

12 **IN WITNESS WHEREOF:**


13 ATTEST

CITY OF NEW ORLEANS

14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_

  
Arnie Fielkow  
City Council President

18 \_\_\_\_\_  
19 Darnell B. Brooks  
20

Bruno and Tervalon  
  
By: Michael B. Bruno, C.P.A.

21 \_\_\_\_\_  
22 Christina Jones  
23

Managing Partner  
4298 Elysian Fields  
New Orleans, LA 70122

24 \_\_\_\_\_  
25 Approved: Christina Jones  
26 Law Department

72-0877929  
Federal ID Number

**MOTION  
(AS AMENDED)  
NO. M-09-675**

**CITY HALL: DECEMBER 7, 2009**

**BY: COUNCILMEMBERS CARTER, HEDGE-MORRELL AND WILLARD-LEWIS**

**WHEREAS**, pursuant to Section 3-130 of the Home Rule Charter of the City of New Orleans, the New Orleans City Council exercises powers of supervision, regulation, and control over electric and gas utilities providing service in the City; and

**WHEREAS**, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected consulting firms as advisors, in accordance with the competitive selection process required by the Home Rule Charter and established by Council Rule 45; and

**WHEREAS**, by Motion M-09-645, after competitive selection, the City Council authorized retention of the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's to continue to provide consulting services to the City Council in electric and gas utility regulatory matters; and

**WHEREAS**, by Motion M-09-645 and the terms of the Request For Qualifications issued on September 4, 2009 and reissued on October 20, 2009, the Council is authorized to enter into a contract with the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's to provide consulting services to the City Council in electric and gas utility regulatory matters renewable on an annual basis for a total period of up to two years; and

**WHEREAS**, by Motion M-09-645 the Council further authorized negotiation of contracts with a scope of work consistent with the request for qualifications and the Council's electric and gas Utility regulatory needs with each of the firms to be retained by the Council; and

**WHEREAS**, during 2009 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's directed the advisors' efforts in planning and executing the audit of Entergy New Orleans storm restoration costs. This was the third such audit of Entergy's Hurricanes Katrina and Rita storm restoration costs totaling over \$283 million. The audits are used as the required certification for the receipt of CDBG funds for ratepayer mitigation; and

**WHEREAS**, during 2009 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's provided financial analyses and input regarding the ENO Rate Case, which included: analyzing several accounting/financial issues relative to ENO's rate filing; developing deposition questions, data requests and inquiries for ENO expert witnesses testifying on various financial/accounting issues; performing analyses related to tax issues, Accumulated Deferred Income Taxes, and tax implications associated with several FERC accounts; analyzing ESI intercompany affiliate billing issues; analyzing payroll related issues; and determining compliance with Council Resolutions regarding Y2K deferrals, distribution maintenance, and Nuclear facilities costs; and

**WHEREAS**, during 2009 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's reviewed ENO's compliance with Council mandated requirements regarding reporting and auditing affiliate cost transactions and related allocation factors; and

**WHEREAS**, during 2009 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's provided accounting policy, technical advice, and audit inquiries on various regulatory matters including:

- a. ENO's accounting and support for storm restoration costs associated with Hurricanes Gustav and Ike,
- b. Remedy payments resulting from bandwidth filings made at FERC by Entergy Services, Inc.

- c. Tax matters associated with ENO's receipt of CDBG funding and other tax issues affecting ratepayers,
- d. Gas supplier over billings resulting from metering problems with ENO's City Gate No. 4 gas meter,
- e. Issues regarding the planned withdrawal of Entergy Arkansas and Entergy Mississippi from Entergy's System Agreement and the resultant impacts on ENO ratepayers,
- f. Cost assumptions relative to energy efficiency programs and the establishment of the Energy Smart Program,
- g. Ongoing monitoring of monthly fuel adjustment filings;
- h. ENO and Entergy regulatory financial filings with the SEC and FERC,
- i. ENO's and ESI's proposed independent transmission coordinator (ITC) arrangements/issues; and

**WHEREAS**, in 2010 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's will continue audit responsibilities regarding ENO's storm costs filings for costs incurred in 2008, 2009 and 2010 and associative tax and incremental revenue requirement impacts; and

**WHEREAS**, in 2010 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's will continue analyses and input regarding the ENO Formula Rate Case to include: development and evaluation of discovery and resultant responses; assistance in preparation and conduct of depositions for ENO witnesses; and the assessment of the reasonableness of costs assigned ratepayers; and.

**WHEREAS**, in 2010 the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's will provide accounting policy, technical advice, and audit inquiry regarding: ENO tax filings and

issues affecting ENO ratepayers; ENO establishment of Entergy Smart policies and procedures related to the Independent Monitor, Third Party Administrator, and Energy Efficiency Financing Alternatives; ENO's Smart Grid Grant from DOE; ENO's Integrated Resource Planning; ENO accounting practices associated with FERC and local regulatory matters; review of costs allocation and expense sharing methodologies employed by ENO, ESI, and other Operating Companies; continued financial analyses regarding SEC and FERC financial reporting; ENO ratepayer impacts associated with Entergy Arkansas and Entergy Mississippi's planned withdrawal from the Entergy System Agreement; the assessment of cost impacts associated with ENO's gas system rebuild; and other regulatory matters that may emerge; and

**WHEREAS**, in approving this contract, the New Orleans City Council is conscious of its responsibility to pursue its regulatory responsibility over gas and electric utilities in a cost-effective manner which nonetheless does not compromise the interests of ratepayers in the high stakes proceedings and others matters which the Council must address on behalf of the City and its ratepayers; and

**WHEREAS**, given the continuing needs of this Council relative to its regulatory responsibility the Council desires to authorize an appropriate contract with the Firm of Bruno & Tervalon, L.L.P., CPA's to assist in meeting the Council's regulatory responsibility to the City and its ratepayers; now, therefore

**BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** that the President is also requested and authorized to sign a new contract with the Accounting Firm of Bruno & Tervalon, L.L.P., CPA's to provide consulting services to the City Council for a maximum compensation under such contract up to Two Hundred Fifty Thousand Dollars (\$250,000.00).

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,**  
that the contract shall add a statement that pursuant to Chapter 2, Article XVIII of the City Code relative to the office of Inspector General that the contractor understands and will abide by all provisions of that Chapter.

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,**  
that such contract may include provisions allowing the option of direct payment of invoices by utilities regulated by the Council pursuant to Section 3-130 of the Home Rule Charter, provided such payments have been approved by the City, after the City's review and forwarding of such invoices for payment, and further that such invoices, if paid the by the City, would be reimbursable by such utility pursuant to Section 3-130 (5) of the Home Rule charter. Such payments shall be recoverable as a regulatory expense by such utility in the same manner as reimbursements to the City for such payments.

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,**  
that the contract shall be circulated in accordance with normal process and the City Council Rules.

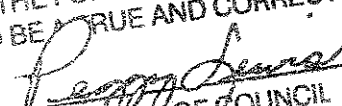
**THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON  
THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:**

**YEAS:** Carter, Clarkson, Fielkow, Hedge-Morrell, Willard-Lewis - 5

**NAYS:** Midura - 1

**ABSENT:** Head (Temporarily Out of Chamber) - 1

**AND THE MOTION, AS AMENDED, WAS ADOPTED.**

THE FOREGOING IS CERTIFIED  
TO BE TRUE AND CORRECT COPY  
  
CLERK OF COUNCIL