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AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
THE CITY OF NEW ORLEANS
AND
SNR DENTON, US, LLP

THIS AGREEMENT is made and entered into as of the 1st day of January 2012 by and between the Council of the City of New Orleans, represented by Jacquelyn B. Clarkson, President of the Council (hereinafter referred to as "City") and the firm of **SNR Denton, US, LLP** (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 hearing officers and consulting firms as advisors, 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-11-406 on September 1, 2011, 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 23, 2011; and

1 **WHEREAS**, responses to the Request for Qualifications were reviewed by the
2 Staff Selection Review Committee on November 16, 2011 and recommended that the
3 Council Utility Committee give further consideration to all respondents; and

4 **WHEREAS**, the Council Utility Committee met on December 7, 2011 and
5 interviewed the respondents recommended by the Staff Selection Review Committee and
6 recommended that the response of SNR Denton, US, LLP be forwarded to the full
7 Council for consideration for contracts renewable on a month to month basis up to one
8 year; in accordance with respective responses and the Council RFQ; and

9 **WHEREAS**, pursuant to Motion M-11-574 the City Council approved SNR
10 Denton, US, LLP be retained as special counsel to the City Council to provide electric
11 and/or natural gas regulatory consulting services for a month to month basis up to one
12 year is hereby approved; and

13 **WHEREAS**, pursuant to Motion M-11-574 the Council authorized the President
14 of the Council to sign a professional service contract with the firm of SNR Denton, US,
15 LLP for the contract amount as specified herein; and

16 **WHEREAS**, the firm of SNR Denton, US, LLP is herein represented by Clinton
17 A. Vince, Esq., Shareholder Partner as authorized by letter to enter into agreement on
18 behalf of the firm of SNR Denton, US, LLP.

19 **NOW, THEREFORE**, the City of New Orleans and the firm of SNR Denton,
20 US, LLP for the consideration, and under conditions set forth, do agree as follows:

1 Senior Managing Associates \$385.00 per hour

2 Other Professionals \$165.00 per hour

3 The compensation to be paid to the firm of SNR Denton, US, LLP for such
4 services shall not exceed Three Million Dollars (\$3,000,000.00). If there are any
5 necessary and ordinary expenses attached to the work of the firm of SNR Denton,
6 US, LLP these expenses, in addition to the fees outlined above, shall be
7 reimbursable by the City but the total amount of such expenses and fees shall not
8 exceed Three Million Dollars (\$3,000,000.00). The firm of SNR Denton, US,
9 LLP shall submit to the City a detailed monthly invoice for payment of services
10 provided. The firm of SNR Denton, US, LLP work shall be detailed in
11 increments of one-tenth of an hour. This agreement is contingent upon the
12 appropriation and allocation of funds by the City of New Orleans.

13 **III. PAYMENT**

14 Payment under this agreement shall be made pursuant to detailed monthly
15 invoices submitted by the firm, subject to review and approval by the City for
16 payment. Upon authorization through the City Council Utilities Regulatory
17 Office such invoices may be submitted to the Finance Department for payment by
18 the City or, alternatively, when such invoices would be reimbursable by a utility
19 subject to regulation under Section 3-130 of the Home Rule Charter and
20 reimbursable pursuant to Section 3-130 (5) of the Home Rule Charter, the City

1 Council Utilities Regulatory Office may submit such invoices for payment to such
2 regulated utility company. Payments in the name of the firm under this provision
3 shall then be sent to the Council Utilities Regulatory Office which shall
4 immediately forward such authorized payment to the firm. The Council Utilities
5 Regulatory Office shall maintain records of such payments which shall be public
6 records and shall also forward copies of such records as required to the CAO and
7 Department of Finance. Such payments, when made by such utility company
8 through the City Council's Utilities Regulatory Office shall fully discharge the
9 City's obligation for such payment under this contract and be included in and
10 applied to the maximum compensation limits of this contract. Pursuant to Motion
11 M-11-574 such payments shall be recoverable as regulatory expense by such
12 utility in the same manner as reimbursements to the City for such payments
13 pursuant to Section 3-130 (5) of the Home Rule Charter.

14 **IV. EQUAL EMPLOYMENT OPPORTUNITY**

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

1 religion, gender, age, physical or mental disability, national origin, sexual
2 orientation, creed, culture or ancestry. This requirement shall apply to, but not be
3 limited to the following: employment, upgrading, demotion, or transfer;
4 recruitment or recruitment advertising; layoff or termination; rates of pay or other
5 forms of compensation; and selection for training, including apprenticeship. All
6 solicitations or advertisements for employees shall state that all qualified
7 applicants will receive consideration for employment without regard to race,
8 color, religion, gender, age, physical or mental disability, national origin, sexual
9 orientation, creed, culture or ancestry.

10 **V. ASSIGNABILITY**

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

14 **VI. CONFLICT OF INTEREST**

15 In the interest of ensuring that efforts of the Contractor do not conflict with the
16 interest of the City, and in recognition of Contractor's professional responsibility
17 to the City, the Contractor agrees to decline any offer of employment if its
18 independent, professional work on behalf of the City is likely to be adversely
19 affected by the acceptance of such employment. The initial determination of such
20 a possibility rests with the Contractor. It is incumbent upon the Contractor to

1 notify the City and provide full disclosure of the possible effects of such
2 employment on the Contractor's independent, professional work in behalf of the
3 City. Final decision on any disputed offers of other employment for the
4 Contractor shall rest with the City.

5 **VII. INDEMNIFICATION**

6 The Contractor shall indemnify and save harmless the City of New Orleans
7 against any and all claims, demands, suits, judgments of sum of money to any
8 party accruing against the City for loss of life or injury or damage to persons or
9 property growing out of, resulting from, or by reason of any act of omission of
10 the operation of the Contractor, his agents, servants or employees while engaged
11 in or about or in connection with the discharge or performance of the services to
12 be done or performed by the Contractor hereunder, and shall also hold the City
13 harmless from any and all claims and/or liens for labor, services, or materials
14 furnished to the Contractor in connection with the performance of its obligation
15 under this Agreement.

16 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S**
17 **COMPENSATION COVERAGE**

18 The Contractor herein expressly agrees and acknowledges that it is an
19 independent Contractor as defined in R. S. 23:1021 (6) and as such, it is expressly
20 agreed and understood between the parties hereto, in entering into this

1 professional services contract, that the City of New Orleans shall not be liable to
2 the Contractor for any benefits or coverage as provided by the Worker's
3 Compensation Law of the State of Louisiana, and further, under the provisions of
4 R.S. 23:1034 anyone employed by the Contractor shall not be considered an
5 employee of the City for the purpose of Worker's Compensation Coverage.

6 **IX. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**
7 **COMPENSATION COVERAGE**

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

- 14 A. The Contractor has been and will be free from any control
15 or direction by the City, over the performance of the
16 services covered by this contract; and
- 17 B. Service(s) to be rendered by the Contractor are outside the
18 normal course and scope of the City's usual business; and
- 19 C. The Contractor has been independently engaged in
20 performing services listed herein prior to the date of this

1 contract.

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

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

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

11 **XI. JURISDICTION**

12 The undersigned Contractor does further hereby consent and yield to the
13 jurisdiction of the State Civil Courts of the Parish of Orleans and does hereby
14 formally waive any pleas of jurisdiction on account of residence elsewhere of the
15 undersigned Contractor.

16 **XII. DURATION OF AGREEMENT**

17 The services to be provided under the terms of this Agreement shall begin on
18 January 1, 2012 and shall end no later than December 31, 2012. It is understood
19 and acknowledged by all signators to this Agreement that work described under
20 these terms is to be accomplished during the time period specified herein. The

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

3 **XIII. EXTENSION**

4 This agreement may be extended at the option of the City, provided that funds are
5 allocated by the Council of the City of New Orleans and the extensions of the
6 agreement facilitate the continuity of services provided herein. This agreement
7 may be approved for the negotiation of a month to month basis up to one year.

8 **XIV. CANCELLATION**

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

13 **XV. SOLICITATION**

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

19 **XVI. OFFICE OF INSPECTOR GENERAL**

20 It is agreed that the contractor or applicant will abide by all provisions of City

1 Code §2-1120, including but not limited to City Code §2-1120(12), which
2 requires the contractor to provide the Office of Inspector General with documents
3 and information as requested. Failure to comply with such requests shall
4 constitute a material breach of the contract. In signing this contract, the
5 contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil
6 District Court for purposes of challenging a subpoena.

7 **XVII. OWNERSHIP INTEREST**

8 The Contractor shall provide a sworn affidavit listing all persons, natural or
9 artificial, with an ownership interest in the Contractor and stating that no other
10 person holds an ownership interest in the contractor via a counter letter. For the
11 purposes hereof, an "ownership interest" shall not be deemed to include
12 ownership of stock in a publicly traded corporation or ownership of an interest in
13 a mutual fund or trust that holds an interest in a publicly traded corporation. If the
14 Contractor fails to submit the required affidavits, the City may, after 30 days'
15 written notice to the prime Contractor, take such action as may be necessary to
16 cause the suspension of any further payments until such the required affidavits are
17 submitted.

18 **XVIII. SUBCONTRACTOR REPORTING**

19 The Contractor shall provide a list of all persons, natural or artificial, who are
20 retained by the Contractor at the time of the contract's execution and who are

1 expected to perform work as subcontractors in connection with the Contractor's
2 work for the city. In regard to any subcontractor proposed to be retained by the
3 Contractor to perform work on the contract with the city, the Contractor must
4 provide notice to the city within 30 days of retaining said subcontractor. If the
5 Contractor fails to submit the required lists and notices, the City may, after 30
6 days' written notice to the prime Contractor, take such action as may be necessary
7 to cause the suspension of any further payments until such the required lists and
8 notices are submitted.

9 **XIX. EXPENSES**

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

1 **XX. LIMITATIONS**

2 For the attendance at all meetings of the Council, the CUC, briefings of
3 Councilmembers, and representation before any court or regulatory body and
4 during the conduct of regulatory proceedings before the Council and other
5 regulatory bodies, the Council will only provide labor fee reimbursement for one
6 consultant from any applicable firm, unless otherwise specifically approved by
7 the Contracting Officer of the City Council. Contractor further agrees to avoid
8 the unnecessary duplication of personnel and costs in the performance of services
9 under this agreement and accordingly, shall staff all assignments with only
10 qualified and experienced personnel so as to only charge for the minimum number
11 of personnel and incur the least costs reasonably necessary to perform the
12 assignments.

13 **XXI. SEVERABILITY**

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

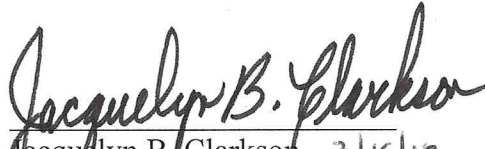
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For the consideration and under the conditions set forth above, the Contractor has agreed to perform the specified services for the City of New Orleans.

IN WITNESS WHEREOF:

ATTEST

CITY COUNCIL


Jacquelyn B. Clarkson 3/19/12
City Council President



SNR Denton, US, LLP

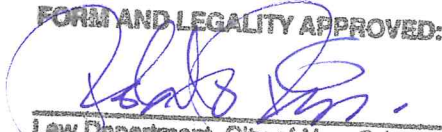



By: Clinton A. Vince, Esq.
Shareholder, Partner
1301 K. Street, NW
Suite 600, East Tower
Washington, DC 20005-3364

36-1796730

Approved: _____

Law Department
Richard M. Cortizas
City Attorney

FORM AND LEGALITY APPROVED:


Law Department, City of New Orleans