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**AGREEMENT FOR PROFESSIONAL SERVICES**

**BETWEEN**

**THE CITY OF NEW ORLEANS**

**AND**

**JEFFREY S. GULIN**

THIS AGREEMENT is made and entered into as of the 1st day of January 2013, by and between the Council of the City of New Orleans, represented by Stacy Head, President of the Council(hereinafter referred to as "City") acting on behalf of the City Council and Jeffrey S. Gulin (hereinafter sometimes referred to as "Contractor").

**WITNESSETH**

**WHEREAS**, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council requires the services of a hearing officer to supervise ongoing proceedings in the Council's Utility Dockets and to that end, conducted a competitive selection process in accordance with Council Rule 45 to address this requirement on a long term basis; and

**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**, a Request for Proposals was issued on October 22, 2012, requesting proposals from qualified persons who the Council may appoint as referee, special master, administrative law judge, designated agent or hearing officer to conduct all or any portion of hearings to be held in connection with the Council's regulatory proceedings pursuant to Article III of Chapter 158 of the Code of the City of New Orleans; and

1           **WHEREAS**, the single response to the Request for Proposals that was received by the  
2 December 5, 2012 deadline, made by Jeffrey S. Gulin, was reviewed by the Staff Selection  
3 Review Committee on December 19, 2012, resulting in a recommendation that the Council  
4 Utility Committee give further consideration to the proposal; and

5           **WHEREAS**, the Council Utility Committee met on January 17, 2013 and recommended  
6 that Jeffrey S. Gulin be retained to provide services as a presiding officer at Council Utility  
7 Regulatory Proceedings

8           **WHEREAS**, pursuant to Motion M-13-18 the City Council approved Jeffrey S. Gulin to  
9 be retained to provide services as a presiding officer at Council Utility Regulatory Proceedings;  
10 and

11           **WHEREAS**, pursuant to Motion M-13-18 the Council authorized the President of the  
12 Council to sign a professional service contract with Jeffrey S. Gulin for the contract amount as  
13 specified herein; and

14           **NOW, THEREFORE**, the City of New Orleans and Jeffrey S. Gulin for the  
15 consideration, and under conditions set forth, do agree as follows:

16           **I.     SCOPE OF SERVICES**

17           **A.     Contractor Agrees To:**

18                   Serve as presiding officer in connection with New Orleans City Council  
19                   regulatory proceedings pursuant to Article III of Chapter 158 of the Code of the  
20                   City of New Orleans. Assignments of responsibility for proceedings are to be  
21                   made directly by the City Council or through the Council Utilities Regulatory  
22                   Office.

1 Services to be performed include, but are not limited to:

2 (1) presiding over and conducting evidentiary administrative hearings;

3 (2) assembling and certifying the evidentiary record in such proceedings to the  
4 City Council;

5 (3) administration of oaths and ruling on evidentiary and other matters, as  
6 appropriate and

7 (4) performing such other related duties as may be required pursuant to lawful  
8 authority delegated by the City Council or as set forth in the City Code.

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

10 1. Provide contract administration through the City Council Utilities  
11 Regulatory Office.

12 2. Provide access to records, documents and other information as may be  
13 required. Additional support and information may be provided by the  
14 Council Utilities Regulatory Office.

15 **II. COMPENSATION**

16 The City agrees to pay the Contractor a sum not to exceed Thirty Thousand Dollars  
17 (\$30,000.00) for all services required herein, which shall include reimbursement for  
18 expenses incurred. The billing rate for professional services shall be \$400.00 per hour.  
19 Jeffrey S. Gulin shall submit to the City a detailed monthly invoice for payment of  
20 services provided. This agreement is contingent upon the appropriation and allocation of  
21 funds by the City of New Orleans.

1     **III.     PAYMENT**

2             Payment under this agreement shall be made pursuant to detailed monthly invoices  
3             submitted by the Contractor, subject to review and approval by the City for payment.  
4             Upon authorization through the City Council Utilities Regulatory Office such invoices  
5             may be submitted to the Finance Department for payment by the City or, alternatively,  
6             when such invoices would be reimbursable by a utility subject to regulation under  
7             Section 3-130 of the Home Rule Charter and reimbursable pursuant to Section 3-130 (5)  
8             of the Home Rule Charter, the City Council Utilities Regulatory Office may submit such  
9             invoices for payment to such regulated utility company. Payments in the name of the  
10            Contractor under this provision shall then be sent to the Council Utilities Regulatory  
11            Office which shall immediately forward such authorized payment to the Contractor. The  
12            Council Utilities Regulatory Office shall maintain records of such payments which shall  
13            be public records and shall also forward copies of such records as required to the CAO  
14            and Department of Finance. Such payments, when made by such utility company  
15            through the City Council's Utilities Regulatory Office shall fully discharge the City's  
16            obligation for such payment under this contract and shall be included in and applied to  
17            the maximum compensation limits of this contract.

18     **IV.     EQUAL EMPLOYMENT OPPORTUNITY:**

19            In all hiring or employment made possible by or resulting from this Contract, there (1)  
20            will not be any discrimination against any employee or applicant for employment because  
21            of race, color, religion, gender, age, physical or mental disability, national origin, sexual



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

12 **V. ASSIGNABILITY:**

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

15 **VI. CONFLICT OF INTEREST:**

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

1 in behalf of the City. Final decision on any disputed offers of other employment for the  
2 Contractor shall rest with the City.

3 **VII. INDEMNIFICATION:**

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

13 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION**

14 **COVERAGE:**

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



1 **IX. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**

2 **COMPENSATION COVERAGE:**

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

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

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

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

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

19 **X. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:**

20 It is expressly agreed to and understood between the parties entering into this  
21 professional services contract that the Contractor, acting as an independent agent,



1 and its agents assigned and employees shall not receive any sick and annual leave  
2 benefits from the City of New Orleans.

3 **XI. JURISDICTION:**

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

7 **XII. DURATION OF AGREEMENT:**

8 The services to be provided under the terms of this Agreement shall begin on  
9 January 1, 2013 and shall end no later than December 31, 2013. It is understood and  
10 acknowledged by all signators to this agreement that work described under these terms is  
11 to be accomplished during the time period specified herein. The terms, conditions and/or  
12 duration of this contract may be modified by an executed, written amendment to this  
13 contract.

14 **XIII. CANCELLATION:**

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

18 **XIV. SOLICITATION:**

19 The Contractor affirms that it has not employed or retained any company or person, other  
20 than a bona fide employee working solely for him, to solicit or secure the subject  
21 contract. The Contractor has not paid or agreed to pay any person, other than a bona fide  
22 employee working for him, any fee, commission, percentage, gift, or any other

1 consideration contingent upon or resulting from the subject contract.

2 **XV. OFFICE OF INSPECTOR GENERAL**

3 It is agreed that the contractor or applicant will abide by all provisions of City Code §2-  
4 1120, including but not limited to City Code §2-1120(12) (as adopted by Ordinance No.  
5 22, 888 M.C.S.), which requires the contractor to provide the Office of Inspector General  
6 with documents and information as requested. Failure to comply with such requests shall  
7 constitute a material breach of the contract. In signing this contract, the contractor agrees  
8 that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes  
9 of challenging a subpoena.

10 **XVI. SUBCONTRACTS:**

11 Any and all subcontracts by the Contractor relating to work under this contract shall be  
12 approved in advance by motion of the Council. The Council may require information on  
13 ownership interests in the subcontractor prior to approval of the subcontractor's retention.  
14 Contractor shall incorporate by reference in all subcontracts the provisions of this Article  
15 and shall require all subcontractors to comply with such provisions. Contractor's failure  
16 to comply with the obligations in this subsection shall constitute a material breach of this  
17 Agreement.

18 **XVII. EXPENSES**

19 Unless otherwise approved by the Contracting Officer of the City Council, reimbursable  
20 expenses shall be limited as follows: meals at reasonable and customary costs for the city  
21 in which they are consumed absent charges for alcoholic beverages, air transportation  
22 limited to lowest available coach fares at the time of booking, lodging expenses in New

1 Orleans not to exceed federal per diem rate for hotels in New Orleans to the extent  
2 achievable without an official governmental identification for the personnel; postage,  
3 overnight delivery or courier services at contractor's actual cost; facsimile transmissions  
4 and long distance telephone charges at contractor's actual cost; copies at \$0.10 per page;  
5 computerized research at contractor's actual cost.

6 **XVIII. CONVICTED FELON PROVISION**

7 The Contractor swears that it complies with Section 2-8 (c) of the Code of the City of  
8 New Orleans. No Contractor principal, member, or officer has, within the preceding five  
9 years, been convicted of, or pled guilty to, a felony under state or federal statutes for  
10 embezzlement, theft of public funds, bribery, or falsification or destruction of public  
11 records.

12 **XIX. OWNERSHIP INTEREST PROVISION**

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

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**XX. SEVERABILITY:**

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

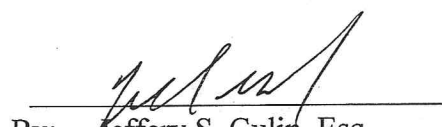
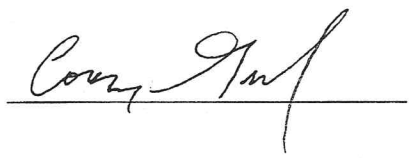
ATTEST

CITY COUNCIL



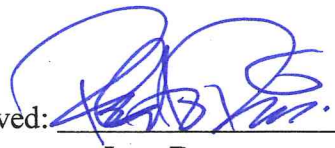
Stacy Head  
City Council President

Jeffery S. Gulin, Esq.



By: Jeffery S. Gulin, Esq.  
Hearing Officer

3302 Bridle Ridge Lane  
Lutherville, MD 21093

Approved:   
Law Department

213-52-9712  
Federal ID Number