

K15-494

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN THE CITY OF NEW ORLEANS

AND THE MEDIA REVOLUTION, INC.

THIS AGREEMENT made this 1th day of January 2015, by and between the City of New Orleans, herein represented by Jason R. Williams Council President (hereinafter referred to as "the City"), and The Media Revolution, Inc. (herein referred to as "Contractor").

W I T N E S S E T H

WHEREAS, the Council has an ongoing interest in the development of the cable and telecommunications infrastructure which serves the City of New Orleans, communications technologies that support the Council in its work, as well as cable access television, and related legislative and regulatory cable and telecommunications issues; and

WHEREAS, the Council has an additional ongoing interest in legislative, regulatory and compliance issues for cable and telecommunications franchises; and

WHEREAS, Contractor, whose Taxpayer ID Number is 72-1207546, possesses the required skills and experience, and is willing to provide services requested by the Council to address these interests of the Council; and

WHEREAS, the Council wishes to take advantage of the knowledge and experience of Contractor and having the authority to do so, has adopted Motion M-14-495 authorizing the Council President to sign a professional services contract to retain Contractor on a month-to-month basis, while a new RFP is developed and issued for the purpose of providing Cable/Telecommunications/Technology consultant services to the Council;

NOW, THEREFORE, the City and Contractor for the consideration, and under the conditions set forth, do agree as follows:

I. SCOPE OF SERVICES:

A. Contractor Agrees To:

Provide technical and/or policy advice and assistance to the Council on cable/telecommunications/technology matters referred to by the Council Utilities Regulatory Office including, but not limited to:

1. Commenting on ordinances resolutions, motions and other legal instruments necessary to effectuate the Council's policy goals; and
2. Commenting on leases, franchises, permits and renewals thereof with cable/telecommunications providers.
3. Monitoring and advising the Council on developments in state and federal law, interpretations thereof, and actions state and federal administrative agencies.
4. Assistance in implementation of cable access plans, the institutional network Services Agreement, and monitoring of compliance of cable/telecommunications providers with franchises, permits, leases and other agreements with the City;
5. Any other services necessary and relevant to assisting the Council in formulating and implementing its cable/telecommunications/technology policy goals.

B. The City Agrees To:

1. Provide contract administration through the City Council Utilities Regulatory Office.
2. Provide access to records, documents and other information as may be required.

Requests for support and information may be directed to the City Council Utilities Regulatory Office.

II. COMPENSATION:

Contractor will continue to provide services requested by the Council, to address and further the Council's interests identified in the preceding paragraphs. These services will be provided and charged on a month to month basis. The compensation to be paid for services rendered will be the

hourly billing rate of Contractor's Principal, \$115.00. If there are any necessary and ordinary expenses attached to the work of Contractor these expenses shall be reimbursable by the City but the maximum compensation for all services including professional hours and expenses shall not exceed the total amount for the contract and amendments through 2014, Eight Hundred Seventy Thousand Dollars (\$870,000.00), increased by \$11,250.00 per month, said increase to begin January 1, 2015 and occur every month the contract remains in effect. Contractor shall submit to the City a detailed monthly invoice for payment of services provided. This agreement is contingent upon the appropriation and allocation of funds by the City of New Orleans.

III. EQUAL EMPLOYMENT OPPORTUNITY:

In all hiring or employment made possible by or resulting from this contract there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture or ancestry, and (2) where applicable, affirmative action will be taken to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture or ancestry.

IV. ASSIGNABILITY:

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same without prior written consent of the City Council.

V. CONFLICT OF INTEREST:

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

VI. INDEMNIFICATION:

The Contractor shall indemnify and save harmless the City of New Orleans against any and all claims, demands, suits, judgments of sums of money to any party accruing against the City for loss of life or injury or damage to persons or property growing out of, resulting from, or by reason of any act or omission of the operations of the Contractor, their agents, servants, or employees while engaged in or about or in connection with the discharge or performance of the services to be done or performed by the Contractor hereinunder, and shall also hold the City harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of their obligation under this Agreement unless such labor, services, or materials have been specifically authorized, in writing and in advance, through an appropriate purchase order or purchasing memo signed by an authorized representative of the City.

VII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE:

Contractor herein expressly agrees and acknowledges that they are independent Contractors as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood among the parties hereto, in entering into this personal services contract, that the City of New Orleans shall not be liable to the Contractor for any benefits or coverages as provided by the Workmen's Compensation Law of the State of Louisiana and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation Coverage.

VIII. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE:

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

- A. Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and
- B. Service(s) to be performed by Contractor are outside the normal course and scope of the City's usual business; and
- C. Contractor has been independently engaged in performing the service(s) listed herein prior to the date of this contract. Consequently, neither Contractor nor anyone employed by Contractor shall be considered an employee of the City for the

purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

IX. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:

It is expressly agreed and understood among the parties entering into this professional services contract that the Contractor, acting as an independent agent, shall not receive any sick and annual leave benefits from the City of New Orleans.

X. JURISDICTION:

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

XI. DURATION OF AGREEMENT:

This service to be provided under the terms of this agreement shall be begin on January 1, 2015 and end no later than December 31, 2015, subject to cancellation per Paragraph XII.

XII. CANCELLATION:

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

XIII. CONVICTED FELON:

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

XIV. SOLICITATION:

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

XV. OFFICE OF INSPECTOR GENERAL:

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

XVI. OWNERSHIP INTEREST:

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

XVII. SUBCONTRACTOR REPORTING:

The Contractor shall provide a list of all persons, natural or artificial, who are retained by the Contractor at the time of the contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the city. In regard to any subcontractor proposed to be retained by the Contractor to perform work on the contract with the city, the Contractor must provide notice to the city within 30 days of retaining said subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after 30 days' written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until the required lists and notices are submitted.

XVIII. EXPENSES:

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

XIX. LIMITATIONS:

For the attendance at all meetings of the Council, the Utility, Cable, Telecommunications and Technology Committee, briefings of Councilmembers, and appearance before any court or regulatory body, and during the conduct of regulatory proceedings before the Council and

other regulatory bodies, the Council will only provide labor fee reimbursement for one consultant from any applicable firm, unless otherwise specifically approved by the Contracting Officer of the City Council. Contractor further agrees to avoid the unnecessary duplication of personnel and costs in the performance of services under this agreement and accordingly, shall staff all assignments with only qualified and experienced personnel so as to only charge for the minimum number of personnel and incur the least costs reasonably necessary to perform the assignments.

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 accounting services to the City with respect to any clause or provision not found to be invalid.

IN WITNESS THEREOF:

CITY OF NEW ORLEANS





Jason R. Williams, President
New Orleans City Council
THE MEDIA REVOLUTION, INC.






By: Valerie LeBlanc
201 St. Charles Ave. – Suite 114
New Orleans, LA 70170
Taxpayer ID Number 72-1207546

Law Department

Approve:


Sharonda Williams, City Attorney
