

**MOTION**

**(AS AMENDED)**

**(AS CORRECTED)**

**NO. M-17-385**

**CITY HALL: July 13, 2017**

**BY: COUNCILMEMBERS WILLIAMS, HEAD, GUIDRY, BROSSETT, GRAY,  
RAMSEY AND CANTRELL**

**WHEREAS**, on May 4, 2017 the Council adopted motion M-17-238 on the recommendation of the Utility, Cable, Telecommunications and Technology Committee (“Committee”) regarding concerns pertaining to the finances and operations of NOA-TV; and

**WHEREAS**, that Motion directed that there be a forensic or comparable audit commissioned to audit the operations of NOATV; and

**WHEREAS**, that Motion also authorized the Council President to determine the appropriate auditor, define the scope of the audit consistent with the motion and to negotiate and engage the auditor’s services; and

**WHEREAS**, the Council President has engaged in a diligent process to select an appropriate auditor and to determine the scope of an audit that would fulfill the mandate of the Motion; and

**WHEREAS**, after completing such process the Council President has determined that the accounting firm of Postlethwaite & Netterville (“P&N”) would be well-suited to the task mandated in the Motion; and

**WHEREAS**, after several discussions with P&N, and after providing certain relevant information to P&N, a suitable scope of audit was determined and detailed in an engagement letter (see attachment Substitute Exhibit "A"); and

**WHEREAS**, the compensation proposed in the engagement letter for the agreed upon services does not exceed \$14,999.99 it can be entered into as a professional services contract that does not require a bid process; and

**WHEREAS**, time is of the essence for conducting the audit mandated in the Motion; and

**WHEREAS**, the Council President recommends the hiring of P&N and accepting the terms of the engagement letter in attachment "A"; **NOW, THEREFORE**

**BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, having determined that the Council President has perform the tasks ordered in the Motion and that his recommendation is consistent with the mandate of the Motion he is hereby authorized to hire P&N and to execute the engagement letter in attachment Substitute Exhibit "A."

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

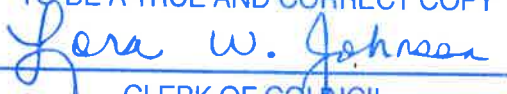
**YEAS: Brossett, Cantrell, Gray, Guidry, Head, Ramsey, Williams - 7**

**NAYS: 0**

**ABSENT: 0**

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

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

SUBSTITUTE EXHIBIT A  
(AS AMENDED)



8550 United Plaza Blvd., Ste. 1001 – Baton Rouge, LA 70809  
225-922-4600 Phone – 225-922-4611 Fax – pncpa.com

*A Professional Accounting Corporation*

July 13, 2017

Mr. Jason Rogers Williams  
Councilmember, New Orleans City Council  
1300 Perdido St. Room 2W50  
New Orleans, LA 70112

Privileged and Confidential

***RE: Forensic Services related to New Orleans Access Television, Inc.***

Dear Mr. Williams,

Thank you for retaining Postlethwaite & Netterville, APAC (P&N) to assist you in this matter. This agreement for consulting services between you and P&N outlines our understanding of the terms and objectives of the engagement and the nature and limitations of the services we will provide.

This engagement will be conducted in accordance with the American Institute of Certified Public Accountants' *Statement on Standards for Consulting Services (SSCS)*.

**Nature, Purpose, and Objective**

We will provide consulting services to assist in a forensic analysis of New Orleans Access Television, Inc. on behalf of the New Orleans City Council. The scope of this engagement will be to perform forensic analysis to identify and trace certain fund transactions from NOATV and affiliated parties. To achieve the objective of the engagement, we will perform the following services:

- We will review all monthly bank account statements (five identified bank accounts) and identify transactions to/from affiliated parties on a per year basis. P&N will coordinate with you to determine the appropriate year(s) to analyze.
- Additionally, if during the course of performing our forensic procedures, we note any other suspicious transactions; we will summarize these observations in our report.
- Our findings will be presented and summarized in a written report.

We will initiate and perform our services under your direction. We will report to you directly, and will submit all reports, communications and work products to you. Any reports or other deliverables presented as part of this engagement are to be used only for the purpose of this forensic engagement on behalf of the New Orleans City Council, and may not be published or used for any other purpose without our express written consent.

You may request that we perform additional services not contemplated by this engagement letter. If this occurs, we will communicate with you regarding the scope and estimated cost of these additional services. Engagements for additional services may necessitate that we amend this letter or issue a separate engagement letter to reflect the obligations of both parties. In the absence of any other written communications from us documenting additional services, our services will be limited to and governed by the terms of this engagement letter.

**Our Responsibilities, Representations, and Limitations**

We have no financial interest or contemplated financial interest in the business or property that is the subject of this engagement, and we have no personal interest or bias with respect to the parties involved. Our compensation is not contingent on an action or event resulting from the analyses or conclusions in, or the use of, this engagement.

We will not perform duties or make decisions on your behalf in this matter. However, we may provide advice and recommendations to assist you in performing your duties and in making decisions. We will not render any legal opinions in this matter.

This engagement will represent our professional, unbiased findings and conclusions based on the data we are able to obtain within a reasonable time, using our best efforts. We will not audit, review, compile, or prepare any financial statements, forecasts, or financial data as part of this engagement. We will not express an opinion or any form of assurance on the financial data provided as part of this engagement.

Our engagement cannot be relied on to disclose errors, fraud, or other illegal acts that may exist outside the scope of this engagement, nor will we be responsible for the impact on our services of incomplete, missing, or withheld information, or mistaken fraudulent data provided from any source or sources.

All information and materials of any form or description collected by us in the course of our engagement shall constitute our work files. Unless you request in writing that source documents be returned to you upon completion of the engagement, such information and materials will be retained in accordance with our records retention policy, which is available upon your request.

Our firm policy is to discard all superseded work papers or data files that have been updated. If you wish us to maintain any of these materials, please specify your request(s) in writing when returning a copy of this engagement letter.

In accordance with the final rules published by the Federal Trade Commission (commonly referred to as the Gramm-Leach-Bliley Act) the following disclosures are made: 1) In the process of performing this engagement, we may collect from the parties, or with the parties' authorization, certain essential information which is non-public, such as information concerning income, expenses, assets, liabilities and other similar information. 2) We will follow professional standards for protecting the confidentiality and security of the non-public information collected. 3) We will not discuss any non-public information about the parties to any third party, except as permitted by the parties or required by law.

If we receive a summons, subpoena, or court order to disclose such confidential information, we will provide you prompt notice of the summons, subpoena or court order and shall seek to protect such confidential information from disclosure to the full extent provided under the law. We will cooperate with you in response to any summons, subpoena, or court order, but it is agreed that P&N will be reimbursed for any time and expenses associated with the defense of the confidentiality of your client's information and / or our work product. We will nevertheless have no liability to you, the parties or any third party for information disclosed in, or pursuant to, any ruling, order, or proceeding of any court or other judicial or non-judicial forum or of any regulatory agency or similar instrumentality.

### **Client Responsibilities and Representations**

You agree to provide us with all documentation and information that we deem necessary to perform our services in a timely manner. Failure to provide us with this information will prohibit us from producing our findings, recommendations, or professional conclusions. In the event you do not provide us with the documentation and information we have requested, we reserve the right to withdraw from the engagement without performing any further services.

You will designate an individual(s) who possesses suitable skill, knowledge, and / or experience to oversee the services and conduct of this engagement, including coordination of your resources and review of deliverables. You authorize us to accept instructions from this individual for this engagement, and this individual (or another representative of your firm) will be responsible for evaluating the adequacy and results of the services performed by P&N and accepting responsibility for such services.

You agree that possession of the work papers or other written documentation regarding the engagement does not carry with it the right of publication of all or part of it, nor may it be used or relied upon without previous written consent for any purpose other than that set forth above. No third parties are intended to be benefited. Schedules, information and other work papers developed during the engagement by P&N are the sole property of P&N.

### **Conflicts**

We have undertaken a reasonable review of our records to determine our professional relationships with the persons or entities you identified. We are not aware of any conflicts of interest or relationships that would, in our sole discretion, preclude us from performing the above work for you or your client.

### **Electronic Data Communication and Storage**

In the interest of facilitating our services to you, we may send data over the Internet, or store electronic data via computer software applications hosted remotely on the Internet or clouds. Your confidential electronic data may be transmitted or stored using these methods. We may use third party service providers to store or transmit this data, such as providers of tax return preparation software. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws, regulations, and professional standards. We require our third party vendors to do the same.

You recognize and accept that we have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third party service providers during this engagement.

### **Fees**

Our fees for this engagement will be billed according to the following rate schedule on the next page, plus expenses. Our invoices will be mailed to you with the understanding that obligation for payment of our fees is the responsibility of the New Orleans City Council.

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<b>Directors</b>	\$260 - \$350 per hour
<b>Associate Directors</b>	\$200 - \$260 per hour
<b>Managers</b>	\$160 - \$200 per hour
<b>Seniors</b>	\$130 - \$160 per hour
<b>Staff</b>	\$115 - \$130 per hour

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Fees for this engagement are expected to be approximately \$6,000 to \$10,000 per year of bank statements analyzed. In connection with the services to be performed, it is difficult at this time to specify the extent of the contemplated services and the time involved. Nevertheless, we shall exert every effort to proceed with this matter in the most efficient and expeditious manner possible and to limit our services to those required.

Any billings become delinquent if not paid within thirty days of the invoice date. If billings are past due in excess of thirty days, we will stop all work until your account is brought current, or withdraw from this engagement. You acknowledge and agree that we are not required to continue work in the event of a failure to pay on a timely basis for services rendered as required by this engagement letter. You further acknowledge and agree that in the event we stop work or withdraw from this engagement, we shall not be liable.

#### **Sole Obligation**

The obligations of P&N are solely obligations of the corporation, and no officer, owner, director, employee, agent, contractor, shareholder or controlling person shall be subject to any personal liability whatsoever to any person, nor will any such claim be asserted by or on behalf of any other party to this agreement or any person relying on this report.

#### **Disputes**

This letter agreement is a legally binding contract between you and us and will be binding upon, and inure to the benefit of, respective heirs, assigns, successors-in-interest, and legal representatives (as applicable). It may not be amended without the prior written consent of both parties.

If a dispute arises out of or relates to this engagement letter including the scope of services contained herein, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under the Professional Accounting and Related Services Dispute Resolution Rules before resorting to arbitration, litigation, or some other dispute resolution procedure. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the AAA. Any mediator so designated must be acceptable to all parties. The mediation will be conducted in Louisiana. The mediation will be treated as a settlement discussion and, therefore, will be confidential. The mediator may not testify for either party in any later proceeding related to the dispute. No recording or transcript shall be made of the mediation proceedings. The costs of any mediation proceedings shall be shared equally by all parties. Any costs for legal representation shall be borne by the hiring party.



**Delivery and Timing**

Our ability to deliver a report is dependent upon our timely receipt of the required information, and we will use our best efforts to meet any reasonable deadlines. To facilitate our best efforts, we ask that you keep us timely informed and coordinate our schedules for any important dates.

**Termination**

We reserve the right to withdraw from this engagement without completing our services if you fail to comply with the terms of this engagement letter or as we determine professional standards require. If any portion of this agreement is deemed invalid or unenforceable, said finding shall not invalidate the remainder of the terms set forth in this engagement letter. We also reserve the right to withdraw from this engagement if, in our professional judgment, our continued involvement in this engagement would be inappropriate, or if the attorneys or parties involved in this litigation change. If the engagement is terminated prior to completion, P&N will bill for services rendered to the date of termination, which will be due upon presentation.

**Acceptance**

You acknowledge having read this agreement in its entirety, have had full opportunity to consider its terms, have had full and satisfactory explanation of same, and fully understand and agree to be bound by the terms of this agreement.

Please indicate your understanding and acceptance by executing this agreement in the space provided below and return it to our offices, indicating your authorization for us to proceed on the above terms and conditions.

Sincerely,

POSTLETHWAITE & NETTERVILLE, APAC

A handwritten signature in cursive script, appearing to read 'Postlethwaite &amp; Netterville', written over a horizontal line.

This letter correctly sets forth the understanding of Mr. Jason Williams on behalf of the New Orleans City Council.

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_