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AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN

THE CITY OF NEW ORLEANS

AND

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.

AND

THE LAW OFFICE OF ALEXANDRA MORA, APLC

THIS PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is entered into by and between the City of New Orleans, through the Council of the City of New Orleans (the “Council”), represented by Jason R. Williams, Council President (as the “City”) and the law firm of Shulman, Rogers, Gandal, Pordy & Ecker, P.A. (“Shulman Rogers”), represented by Alan S. Tilles, Partner, and The Law Office of Alexandra Mora, APLC (“Mora Firm”), represented by Alexandra Mora, Partner (Shulman Rogers and Mora Firm collectively referred to as the “Lawyers” or “Lawyer”). The City and the Lawyers may sometimes be collectively referred to as the “Parties.” This Agreement is effective as of June 15, 2017 (the “Effective Date”).

RECITALS

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, on November 3, 2016, pursuant to Rule 45, the Council adopted Motion M-16-545 directing the Council staff to issue a Request for Qualifications to initiate a competitive selection process to retain professional cable, telecommunications, and

1 technology legal consulting services regarding matters associated with cable access and
2 telecommunications franchise issues as well as other telecommunications and technology
3 issues as they arise in New Orleans; and

4 **WHEREAS**, on November 17, 2016, a Request for Qualifications relative to cable,
5 telecommunications, and technology services was issued and responses were due on
6 December 15, 2016; and

7 **WHEREAS**, on March 7, 2017, responses to the Request for Qualifications were
8 reviewed by the Staff Selection Review Committee which recommended that the Council
9 Utility, Cable, Telecommunications and Technology Committee give further
10 consideration to the Lawyers; and

11 **WHEREAS**, on March 29, 2017, the Council Utility, Cable, Telecommunications
12 and Technology Committee met and recommended that the response by the Lawyers be
13 forwarded to the full Council for consideration of a contract for an initial maximum
14 amount as negotiated by the Council; and

15 **WHEREAS**, on June 15, 2017, the Council adopted Motion M-17-296 by which
16 the Council authorized its President to enter into a contract with the Lawyers containing a
17 scope of work consistent with the Request for Qualifications and the Council's cable,
18 telecommunications, and technology issues legal needs; and

19 **NOW, THEREFORE**, the Parties for the consideration, and under conditions set
20 forth, do agree as follows:

21 **ARTICLE I - PARTIES' OBLIGATIONS**

22 **A. Lawyers' Obligations.** The Lawyers shall:

23 1. Provide advice, counsel and representation to the Council; and

1 2. Provide legal and related consulting services to the Council in all
2 local, state and federal regulatory and legislative matters in respect to cable,
3 telecommunications, and technology issues, as may be required from time to time by the
4 City Council, and its staff.

5 **B. City's Obligations.** The City shall:

6 1. Provide contract administration through the City Council Utilities
7 Regulatory Office; and

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

11 **ARTICLE II - COMPENSATION, EXPENSES, COSTS, AND BILLING**

12 **GUIDELINES**

13 **A. Rates.**

14 1. The compensation to be paid to Shulman Rogers for services
15 rendered will be at the hourly billing rate of:

Shulman Rogers	Georgina L.O. Feigen Of Counsel	\$350
	Alan S. Tilles Partner	\$450
	Marc B. Bergoffen Partner	\$405
	Aaron A. Ghais Partner	\$450
	Keith A. Marshall Associate	\$350
	Dana D. Daberkow Paralegal	\$210
	Shirley Sutton Paralegal	\$195

16
17 2. The compensation to be paid to Mora Firm for services rendered

1 will be at the hourly billing rate of:

Law Office of Alexandra Mora	Walter Wolf Special Counsel	\$300
	Alexandra Mora Partner	\$300

2
3 **B. Maximum Compensation.** The maximum aggregate amount payable by
4 the City to the Lawyers under this Agreement is \$135,000.00.

5 **C. Reimbursable Expenses.** If there are any necessary and ordinary
6 expenses attached to the work of the Lawyers, these expenses, in addition to the fees
7 outlined above, shall be reimbursable by the City but the total amount of such expenses
8 and fees shall not exceed \$135,000.00.

9 **D. Costs for Attendance and Staff.** For the attendance at all meetings of the
10 Council, the Utility, Cable, Telecommunications and Technology Committee
11 (“UCTTC”), briefings of Councilmembers, and representation before any court or
12 regulatory body and during the conduct of regulatory proceedings before the Council and
13 other regulatory bodies, the Council will only provide labor fee reimbursement for one
14 personnel from any applicable firm, unless otherwise specifically approved by the
15 Contracting Officer of the City Council. The Lawyers further agree to avoid the
16 unnecessary duplication of personnel and costs in the performance of services under this
17 Agreement and accordingly, shall staff all assignments with only qualified and
18 experienced personnel so as to only charge for the minimum number of personnel and
19 incur the least costs reasonably necessary to perform the assignments.

20 **E. Billing Guidelines.** The Lawyers shall comply with the billing guidelines
21 attached to this Agreement under Exhibit A.

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ARTICLE III - PAYMENT

A. **Monthly Detailed Invoice.** The Lawyers shall each submit to the City Council Utilities Regulatory Office a detailed monthly invoice for payment of services rendered by the respective firm. Those invoices are subject to review and approval by the City Council Utilities Regulatory Office.

B. **Submission of Invoices.** Upon approval, the City Council Utilities Regulatory Office may submit the invoices to the City’s Department of Finance for payment by the City.

C. **Records.** The Council Utilities Regulatory Office shall maintain records of such payments which shall be public records. The said Council shall also forward copies of such records as required to the Chief Administrative Office and the City’s Department of Finance.

ARTICLE IV - DURATION AND TERMINATION

A. **Initial Term.** The term of this agreement shall be for 1 year, beginning the Effective Date through June 14, 2018. It is understood and acknowledged by the Lawyers that the obligations described under these terms is to be accomplished during the time period specified herein.

B. **Extension.** This Agreement may be extended at the option of the City, provided that funds are allocated by the City Council and the extension of the Agreement facilitates the continuity of services provided herein. This Agreement may be extended by the City for 5 additional one-year terms.

C. **Termination for Convenience.** Either party may terminate this Agreement at any time during the term of the Agreement by giving the other party

1 also hold the City harmless from any and all claims and/or liens for labor, services, or
2 materials furnished to the Lawyers in connection with the performance of their
3 obligations under this Agreement.

4 **ARTICLE VI – LIVING WAGES**

5 To the fullest extent permitted by law, the Lawyers agree to abide by City Code
6 sections 70-801, *et seq.*, which requires payment of a wage to covered employees equal
7 to the amounts defined in the Code (“Living Wage”). If one or both of the Lawyer fails
8 to comply with the requirements of the Living Wage during the term of the Agreement,
9 said failure may result in termination of the Agreement or the pursuit of other remedies
10 by the City.

11 **ARTICLE VII - NON-DISCRIMINATION**

12 A. **Equal Employment Opportunity.** In all hiring or employment made
13 possible by, or resulting from this Agreement, the Lawyers (1) will not be discriminate
14 against any employee or applicant for employment because of race, color, religion,
15 gender, age, physical or mental disability, national origin, sexual orientation, creed,
16 culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that
17 the Lawyers’ employees are treated during employment without regard to their race,
18 color, religion, gender, age, physical or mental disability, national origin, sexual
19 orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited
20 to the following: employment, upgrading, demotion or transfer, recruitment or
21 recruitment advertising, layoff or termination, rates of pay or other forms of
22 compensation, and selection for training, including apprenticeship. All solicitations or
23 advertisements for employees shall state that all qualified applicants will receive

1 consideration for employment without regard to race, color, religion, gender, age,
2 physical or mental disability, national origin, sexual orientation, creed, culture, or
3 ancestry.

4 **B. Non-Discrimination.** In the performance of this Agreement, the Lawyers
5 will not discriminate on the basis, whether in fact or perception, of a person's race, color,
6 creed, religion, national origin, ancestry, age, sex (gender), sexual orientation, gender
7 identity, domestic partner status, marital status, physical or mental disability, or AIDS- or
8 HIV-status against (1) any employee of the City working with the Lawyers in any of
9 Lawyers' operations within Orleans Parish or (2) any person seeking accommodations,
10 advantages, facilities, privileges, services, or membership in all business, social, or other
11 establishments or organizations operated by the Lawyers. The Lawyers agree to comply
12 with and abide by all applicable federal, state and local laws relating to non-
13 discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964,
14 Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of
15 1990.

16 **C. Incorporation into Subcontracts.** The Lawyers will incorporate the terms
17 and conditions of this Article into all subcontracts, by reference or otherwise, and will
18 require all subcontractors to comply with those provisions.

19 **D.** The City may terminate this Agreement for cause if the Lawyers fail to
20 comply with any obligation in this Article, which failure is a material breach of this
21 Agreement.

22 **ARTICLE VIII - INDEPENDENT CONTRACTOR**

23 **A. Independent Contractor Status.** Each Lawyer is an independent

1 contractor and shall not be deemed an employee, servant, agent, partner, or joint venture
2 of the City and will not hold itself or any of its employees, subcontractors or agents to be
3 an employee, partner, or agent of the City.

4 **B. Exclusion of Worker's Compensation Coverage.** The City will not be
5 liable to each Lawyer, as an independent contractor as defined in La. R.S. 23:1021(6), for
6 any benefits or coverage as provided by the Workmen's Compensation Law of the State
7 of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the
8 Lawyers will not be considered an employee of the City for the purpose of Worker's
9 Compensation coverage.

10 **C. Exclusion of Unemployment Compensation Coverage.** Each Lawyer, as
11 an independent contractor, is being hired by the City under this Agreement for hire and
12 defined in La. R.S. 23:1472(E) and neither the Lawyers nor anyone employed by them
13 will be considered an employee of the City for the purpose of unemployment
14 compensation coverage, which coverage same being hereby expressly waived and
15 excluded by the Parties, because: (a) the Lawyers have been and will be free from any
16 control or direction by the City over the performance of the services covered by this
17 Agreement; (b) the services to be performed by the Lawyers are outside the normal
18 course and scope of the City's usual business; and (c) the Lawyers have been
19 independently engaged in performing the services required under this Agreement prior to
20 the date of this Agreement.

21 **D. Waiver of Benefits.** Each Lawyer, as independent contractor, will not
22 receive from the City any sick and annual leave benefits, medical insurance, life
23 insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any

1 services rendered to the City under this Agreement.

2 **ARTICLE IX - NOTICE**

3 **A. In General.** Except for any routine communication, any notice, demand,
4 communication, or request required or permitted under this Agreement will be given in
5 writing and delivered in person or by certified mail, return receipt requested as follows:

6 1. To the City:

7 The Chief of Staff and the Director,
8 The Council Utility Regulatory Office
9 1300 Perdido Street, Room 6E07
10 New Orleans, LA 70112

11 2. To Shulman Rogers:

12 Shulman, Rogers, Gandal, Pordy & Ecker, P.A.
13 Attn: Alan S. Tilles
14 12505 Park Potomac Avenue
15 6th Floor
16 Potomac, MD 20854

17 To Mora Firm:

18 The Law Office of Alexandra Mora, APLC
19 322 Lafayette Street
20 New Orleans, LA 70130

21 **B. Effectiveness.** Notices are effective when received, except any notice that
22 is not received due to the intended recipient's refusal or avoidance of delivery is deemed
23 received as of the date of the first attempted delivery.

24 **C. Notification of Change.** Each party is responsible for promptly notifying
25 the other in writing of any changes in its address(es) set forth above.

26 **ARTICLE X - ADDITIONAL PROVISIONS**

27 **A. Amendment.** No amendment of or modification to this Agreement shall
28 be valid unless and until executed in writing by the duly authorized representatives of

1 both parties to this Agreement.

2 **B. Assignment.** This Agreement and any part of each Lawyer's interest in it
3 are not assignable or transferable without the City's prior written consent.

4 **C. Audit and Oversight.** Each Lawyer will abide by all provisions of City
5 Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the
6 Lawyer to provide the Office of Inspector General with documents and information as
7 requested subject to attorney-client privilege. Failure to comply with such requests shall
8 constitute a material breach of the contract. Each Lawyer agrees that it is subject to the
9 jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a
10 subpoena.

11 **D. Choice of Law.** This Agreement will be construed and enforced in
12 accordance with the laws of the State of Louisiana without regard to its conflict of laws
13 provisions.

14 **E. Conflicting Employment.** To ensure that each Lawyer's efforts do not
15 conflict with the City's interests, and in recognition of each Lawyer's obligations to the
16 City, each Lawyer will decline any offer of other employment if its performance of this
17 Agreement is likely to be adversely affected by the acceptance of the other employment.
18 Each Lawyer will promptly notify the City in writing of its intention to accept the other
19 employment and will disclose all possible effects of the other employment on the
20 Lawyer's performance of this Agreement. The City will make the final determination
21 whether the Lawyer may accept the other employment

22 **F. Conflict Of Interest and License to Practice.** Each Lawyer expressly
23 acknowledges that this Agreement is for the performance of professional legal services

1 on behalf of the Client, the City. Therefore, each Lawyer further acknowledges that it is
2 bound by the Louisiana Rules of Professional Conduct and shall promptly notify Client in
3 the event of any suspension of license to practice law or any disbarment. Each Lawyer
4 represents that it has performed a conflicts check and affirms that no actual, perceived or
5 potential conflicts exist. Each Lawyer acknowledges that it has an ongoing obligation to
6 identify potential conflicts and to decline representation which presents a conflict. Any
7 request for a conflict waiver must be presented to the City in writing in accordance with
8 the Louisiana Rules of Professional Conduct. Nevertheless, the City is under no
9 obligation to approve conflict waiver requests.

10 **G. Construction of Agreement.** Neither party will be deemed to have
11 drafted this Agreement. This Agreement has been reviewed by the Parties and shall be
12 construed and interpreted according to the ordinary meaning of the words used so as to
13 fairly accomplish the purposes and intentions of the Parties. No term of this Agreement
14 shall be construed or resolved in favor of or against the City or the Lawyers on the basis
15 of which party drafted the uncertain or ambiguous language. The headings and captions
16 of this Agreement are provided for convenience only and are not intended to have effect
17 in the construction or interpretation of this Agreement. Where appropriate, the singular
18 includes the plural and neutral words and words of any gender shall include the neutral
19 and other gender.

20 **H. Convicted Felon Statement.** Each Lawyer complies with City Code § 2-
21 8(c) and no principal, member, or officer of the Lawyer has, within the preceding 5 years,
22 been convicted of, or pled guilty to, a felony under state or federal statutes for
23 embezzlement, theft of public funds, bribery, or falsification or destruction of public

1 records.

2 **I. Employee Verification.** Each Lawyer swears that (i) it is registered and
3 participates in a status verification system to verify that all employees in the State of
4 Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue,
5 during the term of this Agreement, to utilize a status verification system to verify the
6 legal status of all new employees in the State of Louisiana; and (iii) it shall require all
7 subcontractors to submit to the Lawyer a sworn affidavit verifying compliance with items
8 (i) and (ii) above. Any violation of the provisions of this paragraph may subject this
9 Agreement to termination, and may further result in the Lawyer being ineligible for any
10 public contract for a period of 3 years from the date the violation is discovered. Each
11 Lawyer further acknowledges and agrees that it shall be liable for any additional costs
12 incurred by the City occasioned by the termination of this Agreement or the loss of any
13 license or permit to do business in the State of Louisiana resulting from a violation of this
14 provision. Each Lawyer will provide to the City a sworn affidavit attesting to the above
15 provisions if requested by the City. The City may terminate this Agreement for cause if
16 the Lawyer fails to provide such the requested affidavit or violates any provision of this
17 paragraph.

18 **J. Entire Agreement.** This Agreement, including all incorporated
19 documents, constitutes the final and complete agreement and understanding between the
20 Parties. All prior and contemporaneous agreements and understandings, whether oral or
21 written, are superseded by this Agreement and are without effect to vary or alter any
22 terms or conditions of this Agreement.

23 **K. Jurisdiction.** Each Lawyers consent and yield to the jurisdiction of the

1 State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions
2 of jurisdiction on account of the residence of the Lawyer.

3 L. Limitations of the City's Obligations. The City has no obligations not
4 explicitly set forth in this Agreement or any incorporated documents or expressly
5 imposed by law.

6 M. No Third Party Beneficiaries. This Agreement is entered into for the
7 exclusive benefit of the Parties and the Parties expressly disclaim any intent to benefit
8 anyone not a party to this Agreement.

9 N. Non-Exclusivity. This Agreement is non-exclusive and each Lawyer may
10 provide services to other clients, subject to the City's approval of any potential conflicts
11 with the performance of this Agreement and the City may engage the services of others
12 for the provision of some or all of the work to be performed under this Agreement.

13 O. Non-Solicitation Statement. Each Lawyer has not employed or retained
14 any company or person, other than a bona fide employee working solely for it, to solicit
15 or secure this Agreement. Each Lawyer has not paid or agreed to pay any person, other
16 than a bona fide employee working for it, any fee, commission, percentage, gift, or any
17 other consideration contingent upon or resulting from this Agreement.

18 P. Non-Waiver. The failure of either party to insist upon strict compliance
19 with any provision of this Agreement, to enforce any right or to seek any remedy upon
20 discovery of any default or breach of the other party at such time as the initial discovery
21 of the existence of such noncompliance, right, default or breach shall not affect or
22 constitute a waiver of either party's right to insist upon such compliance, exercise such
23 right or seek such remedy with respect to that default or breach or any prior

1 contemporaneous or subsequent default or breach.

2 **Q. Ownership Interest Disclosure.** Each Lawyer will provide a sworn
3 affidavit listing all natural or artificial persons with an ownership interest in the Lawyer
4 and stating that no other person holds an ownership interest in the Lawyer via a counter
5 letter. For the purposes of this provision, an “ownership interest” shall not be deemed to
6 include ownership of stock in a publicly traded corporation or ownership of an interest in
7 a mutual fund or trust that holds an interest in a publicly traded corporation. If the
8 Lawyer fails to submit the required affidavits, the City may, after 30 days’ written notice
9 to the Lawyer, take such action as may be necessary to cause the suspension of any
10 further payments until such the required affidavits are submitted.

11 **R. Ownership of Records.** Upon final payment, all data collected and all
12 products of work prepared, created or modified by the Lawyers in the performance of this
13 Agreement, including without limitation any and all notes, tables, graphs, reports, files,
14 computer programs, source code, documents, records, disks, original drawings or other
15 such material, regardless of form and whether finished or unfinished, but excluding the
16 Lawyer’s personnel and administrative records and any tools, systems, and information
17 used by the Lawyers to perform the services under this Agreement, including computer
18 software (object code and source code), know-how, methodologies, equipment, and
19 processes and any related intellectual property (collectively, “**Work Product**”) will be
20 the exclusive property of City and the City will have all right, title and interest in any
21 Work Product, including without limitation the right to secure and maintain any
22 copyright, trademark, or patent of Work Product in the City’s name. No Work Product
23 may be reproduced in any form without the City’s express written consent. The City may

1 use and distribute any Work Product for any purpose the City deems appropriate without
2 the Lawyers' consent and for no additional consideration to the Lawyers.

3 **S. Prohibition of Financial Interest in Agreement.** No elected official or
4 employee of the City shall have a financial interest, direct or indirect, in this Agreement.
5 For purposes of this provision, a financial interest held by the spouse, child, or parent of
6 any elected official or employee of the City shall be deemed to be a financial interest of
7 such elected official or employee of the City. Any willful violation of this provision, with
8 the expressed or implied knowledge of any Lawyer, shall render this Agreement voidable
9 by the City and shall entitle the City to recover, in addition to any other rights and
10 remedies available to the City, all monies paid by the City to the Lawyer pursuant to this
11 Agreement without regard to Lawyers' otherwise satisfactory performance of the
12 Agreement.

13 **T. Prohibition on Political Activity.** None of the funds, materials, property,
14 or services provided directly or indirectly under the terms of this Agreement shall be used
15 in the performance of this Agreement for any partisan political activity, or to further the
16 election or defeat of any candidate for public office.

17 **U. Remedies Cumulative.** No remedy set forth in the Agreement or
18 otherwise conferred upon or reserved to any party shall be considered exclusive of any
19 other remedy available to a party. Rather, each remedy shall be deemed distinct, separate
20 and cumulative and each may be exercised from time to time as often as the occasion
21 may arise or as may be deemed expedient.

22 **V. Severability.** Should a court of competent jurisdiction find any provision
23 of this Agreement to be unenforceable as written, the unenforceable provision should be

1 reformed, if possible, so that it is enforceable to the maximum extent permitted by law or,
2 if reformation is not possible, the unenforceable provision shall be fully severable and the
3 remaining provisions of the Agreement remain in full force and effect and shall be
4 construed and enforced as if the unenforceable provision was never a part the Agreement.

5 **W. Subcontractor Reporting.** Each Lawyer will provide a list of all natural
6 or artificial persons who are retained by the Lawyer at the time of the Agreement's
7 execution and who are expected to perform work as subcontractors in connection with the
8 Lawyer's work for the City. For any subcontractor proposed to be retained by a Lawyer
9 to perform work on the Agreement with the City, the Lawyer must provide notice to the
10 City within 30 days of retaining that subcontractor. If a Lawyer fails to submit the
11 required lists and notices, the City may, after thirty 30 days' written notice to the Lawyer,
12 take any action it deems necessary, including, without limitation, causing the suspension
13 of any payments, until the required lists and notices are submitted.

14 **X. Survival of Certain Provisions.** All representations and warranties and all
15 obligations concerning record retention, inspections, audits, ownership, indemnification,
16 payment, remedies, jurisdiction, and choice of law shall survive the expiration,
17 suspension, or termination of this Agreement and continue in full force and effect.

18 **Y. Terms Binding.** The terms and conditions of this Agreement are binding
19 on any heirs, successors, transferees, and assigns.

20 **ARTICLE XI – COUNTERPARTS**

21 This Agreement may be executed in one or more counterparts, each of which shall
22 be deemed to be an original copy of this Agreement, but all of which, when taken
23 together, shall constitute one and the same agreement.

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ARTICLE XII - ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

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[SIGNATURES CONTAINED ON NEXT PAGES]

1 **IN WITNESS WHEREOF**, the City and the Lawyers, through their duly
2 authorized representatives, execute this Agreement.

3 **CITY OF NEW ORLEANS**
4 **BY:** _____
5 **Jason R. Williams, Council President**
6 Executed on this 9 of November, 2017.

7
8 **APPROVED:**
9 **Law Department**
10 **By:** _____
11 **Printed Name:** _____
12

13 **[The remainder of this page is intentionally left blank]**
14 **[SHULMAN ROGERS AND MORA FIRM SIGNATURES CONTAINED ON**
15 **NEXT PAGES]**
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**Shulman, Rogers, Gandal, Pordy &
Ecker, P.A.**



**By: Alan S. Tilles, Esq.
Partner**

52-1008944
Federal ID Number

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[MORA FIRM SIGNATURE CONTAINED ON NEXT PAGE]

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~~The Law Office of Alexandra Mora, APLC~~

By: Alexandra Mora, Esq. 10/31/17

Partner

68-0492711

Federal ID Number

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[EXHIBIT A CONTAINED ON NEXT PAGES]

1 **EXHIBIT A TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN**
2 **THE CITY OF NEW ORLEANS**
3 **AND**
4 **SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.**
5 **AND**
6 **THE LAW OFFICE OF ALEXANDRA MORA, APLC**
7 **City Council Utility Regulatory Office (CURO) Work and Billing**
8 **Practices Policy for Utility, Cable, Telecommunications and Technology**
9 **Committee (UCTTC) Advisors**

10 **May 4, 2016**

11
12 Note: The following applies to a UCTTC Advisor, or multiple Advisors, or Advisor
13 firms, hereafter referred to as "Advisor" or "Advisors." In this policy, the terms
14 "Invoice" and "Bill" or "Billing" are used interchangeably. "CURO" refers to the CURO
15 Chief and the Deputy Chief/Director, or if one is unavailable then the other, together with
16 any person serving in an interim role in one of those positions.

17 **Purpose:**

- 18 1) To ensure that services are reasonably billed and are in accordance
19 with contractual terms.
- 20 2) To facilitate efficient administration of the contracts and prompt
21 review and payment of invoices.
- 22 3) To facilitate analysis of contractual service costs for planning and
23 budgeting purposes.
- 24 4) To prevent inadvertent disclosure of privileged information and/or
25 strategies.

26 **Permitted Work:**

27 All professional services are subject to the provisions of the Advisor
28 contracts. The Council views every bill from an Advisor as a certification
29 by the Advisor and his or her firm that the services and disbursements
30 reflected on the bill are reasonable for the matter involved and necessary for

1 the proper provision of professional services to the Council. Staffing shall
2 be efficient. Time and disbursements that are not necessary for the cost-
3 effective handling of a matter should not be billed. Compliance with this
4 procedure will avoid delays in processing invoices.

5 Subject to additional direction given by the Council, the UCTTC, or its
6 Chair, with a copy to CURO, the following work may be performed,
7 provided it is in compliance with the remaining Work and Billing
8 Practices hereafter:

- 9 1) Reasonable monitoring and information gathering with respect to
10 issues that are of interest to the UCTTC.
- 11 2) Strategic analysis, reports and discussions with other consultants,
12 members of the Council, and Council employees.
- 13 3) Contacts with persons interested in issues that are, or could be,
14 before the UCTTC.
- 15 4) Consultation, coordination and advocacy with others to ensure that
16 the interests of the UCTTC are served; and in connection
17 therewith, personal appearances and the preparation and filing of
18 documents.
- 19 5) Intervention and participation in Administrative or Judicial
20 proceedings; and in connection therewith, personal appearances
21 and the preparation and filing of documents, pleadings, etc.
- 22 6) Lobbying or monitoring activities with respect to legislation of
23 material interest to the UCTTC; and in connection therewith,
24 personal appearances and the preparation and filing of documents.
- 25 7) Preparation of draft legislation, resolutions, recommendations and
26 decisions.
- 27 8) Attending meetings and coordinating activities with other city
28 agencies and other bodies.
- 29 9) Telephone conferences and attending meetings with, and preparing
30 materials for, the Council, its members, the UCTTC, and CURO
31 on utility regulatory and such other matters as the Council,
32 UCTTC or individual members thereof may request.

33 **Process for Billing and Payment:**

34 Invoices shall be submitted electronically to CURO on a monthly basis by the end of the
35 month following the month in which charges are made. If requested, Advisors shall

1 concurrently provide copies to the Chairperson of the UCTTC and the Council Chief of
2 Staff or Interim Council Chief of Staff. Unless authorized by CURO, invoices should not
3 include time from outside the statement's monthly billing period. Within 30 days of
4 receipt of the invoice, CURO shall complete its review and provide the Chairperson of
5 the UCTTC with a memo containing any recommendations and a request for approval for
6 CURO to process the invoice for payment.

7 Upon receipt of the recommendations and request for approval to process for payment,
8 the Chairperson of the UCTTC shall complete the invoice review and by memo to
9 CURO: 1) authorize the payment of the original invoice amount, or 2) substitute a
10 different amount that is authorized for payment. If a different-than-original invoice
11 amount is authorized for payment by CURO, the Council Chief of Staff or Interim
12 Council Chief of Staff, and submitting Advisor should be immediately notified, with
13 opportunity given for discussion of the substituted amount. Upon the conclusion of this
14 discussion, the Chairperson of the UCTTC shall make a final determination of the
15 amount authorized for payment and authorize CURO to immediately process for payment
16 of that amount.

17 **Billings:**

18 At the commencement of the contract period, Advisors shall identify, and the Chair of the
19 UCTTC shall approve, with a copy to CURO, all work categories in which Permitted
20 Work as described herein is expected to be necessary. Legal and technical Advisors
21 for Utilities and legal and technical Advisors for Cable, Telecommunications and
22 Technology shall identify categories of work in a clear and concise manner and shall
23 include the use of FERC and Council docket numbers, rulemaking proceedings,
24 resolutions and motion numbers as well as clear and concise descriptions of the work
25 performed. The Advisors shall coordinate these identified work categories with their
26 counterpart Advisors within each of these two areas of work covered by the UCTTC,
27 so that categories of work appearing on bills are as uniform as reasonably achievable
28 for every Advisor billing, within each of the two areas of work.

29 If an Advisor performs work on account of or at the direction of the Council Chief of
30 Staff, Council Fiscal, CURO or an individual Councilmember, other than the current
31 Chair of the UCTTC, the associated billings should identify the party by use of the
32 following codes.

Council Entity	Client code
Council Chief of Staff	CC2010
At-Large Division 1	CC2011
At-Large Division 2	CC2012
District "A"	CC2013
District "B"	CC2014
District "C"	CC2015
District "D"	CC2016

District "E"	CC2017
Council Fiscal	CC2040 -
Council Utilities	CC2050

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- 2 If, during a contract period, Advisors determine a new category of work is needed, the
3 Chair of the UCTTC shall be promptly notified, with a copy to CURO, following which
4 the Chair of the UCTTC shall approve the new category before it is used in a bill.
5 Existing categories should not be used for work for which a new category should be
6 created.
- 7 A "Miscellaneous or General Matters" category may be used for entries which do not fit
8 into existing categories and do not total greater than 10% of the total bill for the month.
9 Entries in this category should include a sufficient description so that it can be clear to the
10 reviewer what work was performed.
- 11 Final work product for which time and expense entries appear on an invoice will be
12 provided to the Chair of the UCTTC, any Council Member or CURO upon request, to
13 the extent public disclosure will not jeopardize or injure the interests of the Council. If
14 an Advisor determines that it should not be promptly produced in order to protect the
15 interests of the Council, the reason why it is not being provided shall be timely
16 communicated to CURO
- 17 Efforts should be made to identify other clients of Advisors not in conflict with the
18 Council, who could be expected to benefit from research or other Permitted Work that Advisors
19 perform for the Council. If work benefits other clients of Advisor, only the appropriate
20 proportionate share of the cost should be billed to the Council.
- 21 Time records, by date, for each professional rendering service within each category shall
22 be entered in increments of 1/10th of hours (e.g.: ".7," or "1.6") and include a brief
23 description of the work performed.
- 24 "Block billings" (billings combining a number of activities under a single time entry with little or
25 no description of individual tasks performed or the time taken for each) should not occur. An
26 occasional exception may be made when brief work activities within a category cannot be
27 accurately or efficiently billed by making individual time entries, in which case a description of
28 the tasks performed may be provided under a single time entry for a short period of total time.
29 This exception should be limited to a circumstance where a number of short tasks within a
30 category are performed on the same day and billing for each would significantly increase the
31 total time billed for the tasks.
- 32 Billings should account for time without disclosing sensitive areas of strategic focus. When the
33 subject of the work is sensitive—for example if the work involves strategy pertaining to a current
34 or potential administrative or court proceeding—the specific nature of the discussions, analysis,
35 or meeting, as well as the other persons involved, may need to be left out of the detailed time
36 summaries. However, this information should be retained by Advisors, available to be

1 immediately provided to the UCTTC or CURO if requested.

2 Advisors should review each billing prior to its submission to determine that each billing
3 entry clearly and succinctly describes the task performed and the reason for the task, if
4 the reason is not apparent from the task description itself. Individual and total charges for
5 time and expenses should be checked to make certain they are accurate.

6 When describing work performed, task descriptions should be written in plain English.
7 Advisors should not use overly general descriptions such as:

- 8 ○ Attention to or request attention to
- 9 ○ Review
- 10 ○ Continued (followed by a task)
- 11 ○ Organize file
- 12 ○ Follow up

13
14 In all cases, the Advisors should use appropriate descriptors that indicate the work that was
15 performed and not use overly general descriptions. These would include, but not be limited to,
16 the following:

- 17 ○ Read _____
- 18 ○ Review of_(specify)_____
- 19 ○ Write _____
- 20 ○ Prepare for _____
- 21 ○ Edit (or Revise) _____
- 22 ○ Attend _____
- 23 ○ Conduct _____
- 24 ○ Phone conference with regarding _____
- 25 ○ Email to (or from) regarding _____
- 26 ○ Draft (in relation to reports, pleadings, motions and briefs) _____
- 27 ○ Correspondence with _____ regarding _____
- 28 ○ Research regarding _____
- 29 ○ Write memorandum to _____ regarding _____
- 30 ○ Meeting with _____ regarding _____
- 31 ○ Run analysis of _____
- 32 ○ Create engineering models
- 33 ○ Run assumptions for _____

34
35
36 Utility Advisors: work related to the Federal Energy Regulatory Commission (FERC) shall be
37 billed under the specific FERC docket or rulemaking or simultaneous multiple dockets, for
38 which the work is performed with an adequate description of the work activity performed
39 provided in individual time entries.

40 Advisors should assign work internally within their firms to use the least expensive person to do
41 work consistent with the best representation of the Council's interest. For example, a legal assistant,

1 paralegal, or law clerk should be used to do routine work that does not require a more experienced
2 lawyer's services. If an attorney chooses to perform research that could be as effectively performed
3 by a law clerk, or a technical advisor chooses to perform research that could be as effectively
4 handled by a research assistant, the professional should not bill at an hourly rate greater than the rate
5 charged for a law clerk or research assistant unless sufficient explanation is provided for the
6 necessity of using the higher-billing person.

7 Non-billable work (for which Advisors will not be paid):

- 8 1) Research or review of industry literature or trade publications.
9
- 10 2) Attendance at professional conferences, educational seminars, or continuing
11 legal education activities.
12
- 13 3) Research and review of basic substantive law at issue in the matter for which the firm
14 was retained.
15
- 16 4) Advisors should be judicious in limiting the number of persons in attendance at
17 meetings (whether telephonic, web based or in person), depositions, hearings or other
18 proceedings always considering how best to protect the Council's interests. The
19 Council specifically recognizes that some matters require differing kinds of expertise
20 among the professionals in the Advisor firms which would require more than one
21 person of an Advisor firm in attendance at such meetings, depositions, hearings,
22 negotiations, strategy sessions and the like in furtherance of the Council's interests.
23 When more than one person within the Advisor's firm attends the same meeting,
24 deposition, hearing or other proceeding, CURO may request or the Chair of the UCTTC
25 may require an explanation of why it was in the best interest of the Council. In all
26 cases where more than one person within an Advisor's firm bills for attendance
27 at a meeting, deposition, hearing or other proceeding, the Chair of the UCTTC
28 may decline the charge after discussion with the Advisor. Advisors should invite
29 CURO to meetings when practical.
30
- 31 5) Administrative tasks, such as support or clerical services (work customarily
32 performed by secretaries, word processors, proofreaders, managing clerks,
33 information system technicians, librarians, computer operators, etc., including
34 but not limited to photocopying, file maintenance, filing or delivering materials,
35 arranging travel or scheduling depositions or meetings) shall not be billed,
36 either regularly or as overtime. Attorneys, paralegals, and law clerks shall not
37 bill for performing such tasks.
38
- 39 6) Time spent preparing, discussing, or supporting Advisor's invoices, including
40 time or expense associated with delivering or collecting Advisor's invoices.
41
- 42 7) Downtime or learning time that may result from staffing changes.
43
- 44 8) Time spent on staffing issues.

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2 9) Time spent by Advisors traveling to or from New Orleans. If Permitted Work is
3 performed during such travel, it may be billed as described herein.
4
5 10) Time spent traveling to attend MISO, OMS, or ERSC-related meetings or
6 events. If Permitted Work is performed during such travel, it may be billed as
7 described herein.

8 **Expenses:**

9 To qualify for reimbursement, expenses should be reasonable, documented and itemized,
10 and occur in conjunction with services described in the time entries. Expenses should
11 identify the bill category to which they pertain. The number of persons present in
12 connection with an expense item should be indicated where such information is relevant
13 to ensure that the expense is reasonable.

14 Fees charged by electronic or other research services, including library fees, Westlaw,
15 Lexis and other online services are considered general overhead and are not
16 reimbursable.

17 Costs of court reporters and transcripts shall be billed at actual cost. Advisors should
18 obtain the lowest possible charge reasonably available for court reporting fees, including
19 any possible volume discounts. The least-expensive sufficient option for transcripts shall
20 be selected. Any billing for more than a single transcript of the same testimony or event
21 for all Advisors must be adequately explained; otherwise, the billing attorney shall
22 receive the transcript and provide for the distribution of copies to other Advisors as an
23 administrative expense to the extent permitted by law.

24 Electronic transfer of documents (e.g., e-mail) shall be used if possible. Billings for
25 express mail or courier charges will not be paid unless an acceptable explanation is
26 provided of why such measures were necessary. If such charges are necessary, actual
27 reasonable charges will be reimbursed. If an Advisor has a volume discount arrangement
28 with a vendor, charges shall be made on that basis. Charges for time spent preparing
29 express mail packages are not reimbursable.

30 Items or services that will not be reimbursed: customary office supplies; routine postage;
31 facsimile charges; fees incurred by a timekeeper for printing or scanning; and long-distance
32 charges or other telephone charges for phone calls made at an Advisor's office or place of
33 business.

34 Photocopying charges not exceeding \$0.10 per page will be reimbursed. If the use of an
35 outside copying service would be more economical and confidentiality is not an issue, the
36 service should be used.

37 Approval must be obtained in writing from CURO prior to using any third-party services
38 for which reimbursement will be requested, other than legal-process servers and court
39 reporters. If approved, actual reasonable charges will be reimbursed.