

1                                   **AGREEMENT FOR PROFESSIONAL SERVICES**

2   **BETWEEN**

3   **THE CITY OF NEW ORLEANS**

4   **AND**

5   **SCOPE SERVICES, INC.**

6   THIS AGREEMENT made this 22nd day of October 2009 (the effective date), by and between  
7   the City of New Orleans, herein represented by Arnie Fielkow, Council President (hereinafter  
8   referred to as "the City"), and Scope Services, Inc. represented by Lydia Demski, (hereinafter  
9   referred to as "Contractor").

10   **W I T N E S S E T H**

11           **WHEREAS**, following completion of a Request for Qualifications process conducted in  
12   compliance with Council Rule 45, by Motion M-09-498, adopted by the Council on September  
13   17, 2009, the Council authorized and requested the Council President to sign a professional  
14   services contract to retain Scope Services, Inc. to perform recruitment services to facilitate the  
15   filling of the vacant position of Council Utilities Regulatory Officer requested in the June 24,  
16   2009 Request for Proposals authorized by Motion M-09-281;

17           **WHEREAS**, Scope Services, Inc., whose Taxpayer I.D. Number is 38-2497854  
18   possesses the required skills and experience to provide such recruitment services to the City  
19   Council; now, therefore

20   **ARTICLE I. SCOPE OF SERVICES**

21   **Section 1.     CONTRACTOR AGREES TO:**

22   **A.     Detailed data gathering**

23           Meet with Council/Council representatives to gain an understanding of the critical  
24           objectives, business environment, culture and any key issues that may affect the position.

1 From this information, develop a complete position and candidate profile for use as a  
2 marketing tool in the recruiting process.

3 **B. Research strategy.**

4 Using the jointly developed candidate profile, identify companies/organizations who  
5 employ the type of candidate being sought. Identify individuals with proven abilities and  
6 a solid reputation.

7 **C Recruitment plan**

8 Develop a list of potential candidates and contact each of these individuals. Identify their  
9 interest in the position, motivation for making a change in employment, qualifications for  
10 the position and fit to the City's needs.

11 **D. Candidate evaluation and interviews.**

12 Narrow search to a "short list" of qualified candidates. Through personal meetings, using  
13 competency based interview techniques and a validated assessment tool (The Profile),  
14 evaluate qualifications, style and personality. Then select those that meet the City's  
15 criteria and culture.

16 **E. Reference checking.**

17 Present final candidates with background data and contractor's recommendation.  
18 Conduct extensive referencing on the finalists to verify education, background, and  
19 qualifications. Investigate job performance and personal issues to ensure suitability of  
20 the candidates.

21 **F. Negotiation.**

22 Serve as intermediary and advisor throughout salary, benefit, relocation, and other areas  
23 of negotiation. Update both the City and candidate on their respective reactions and  
24 expectations throughout the interview process to lay the groundwork for a successful

1 offer.

2 **G. On-boarding and follow-up.**

3 Act as a liaison between the City and the chosen candidate during the transition to  
4 employment. Schedule regular calls with the City and the candidate to relay feedback  
5 and keep the City informed to insure a successful transition.

6 **Section 2.** The City shall perform each of the following services:

7 Provide administration of the Agreement through the City Council Chief of Staff (COS); and

8 Provide access to all personnel and records deemed necessary for the performance of the  
9 Services by Contractor.

10 **ARTICLE II. REPRESENTATIONS AND WARRANTIES**

11 Section 1. Representations and Warranties of City. City represents and warrants that:

12 A. City has the legal authority to enter into this Agreement; and

13 B. The undersigned Council President has the authority to execute this Agreement on behalf  
14 of City.

15 Section 2. Representations and Warranties of Contractor. Contractor represents and warrants  
16 that:

17 A. Contractor has not employed or retained any entity or person, other than a bona fide  
18 employee working solely for Contractor, to solicit or secure this Agreement nor has  
19 Contractor paid or agreed to pay any entity or person, other than a bona fide employee,  
20 any gift, commission, percentage, brokerage or any other such fee for the purpose of  
21 assisting Contractor in securing this Agreement. Contractor acknowledges its

1 understanding that any gifts made or fees paid in contravention of this representation and  
2 warranty shall be considered bribery pursuant to City Code Section 70-509 and shall  
3 subject the offender to criminal penalties in addition to suspension from participation in  
4 City contracting for a period of not less than three years. The execution of this  
5 Agreement by Contractor's duly authorized representative shall be deemed a sworn  
6 statement by Contractor of its compliance with this representation and warranty, as  
7 required by City Code Section 46-51;

8 B. Contractor, through its duly authorized representative, has the full power and authority to  
9 enter into and execute this Agreement and, as such, this Agreement is legally binding  
10 upon and enforceable against Contractor in accordance with its terms;

11 C. Contractor is not under any obligation to any other party that would be inconsistent with or  
12 in conflict with this Agreement or that would prevent, limit or impair in any way its  
13 performance of any obligations hereunder;

14 D. Contractor has the requisite expertise, qualifications, staff, materials and equipment in  
15 place and available to enable it to fully perform the Services and Contractor, along with  
16 its employees, as required, and all sub-contractors, if any and as required, possess all  
17 necessary permits, licenses, consents, registrations and/or certifications required under  
18 federal, state and/or local law to perform the Services;

19 E. As of the Effective Date of this Agreement, Contractor has no knowledge of any  
20 undisclosed fact that could materially adversely affect its condition (financial or  
21 otherwise), business operations or its ability to fulfill its obligations under this  
22 Agreement;

23 F. Contractor is not in breach of any federal, state or local statute or regulation applicable to  
24 Contractor or its operations;

1 G. Contractor's work shall be accurate and free from any material errors. Contractor's  
2 duties as set forth in this Agreement shall at no time be in any way diminished by reason  
3 of any approval by City nor shall Contractor be released from liability by reason of such  
4 approval by City—it being understood that City, at all times, is ultimately relying upon  
5 Contractor's skill and knowledge in performing the Services;

6 H. Contractor is bonded, if required by law, and fully and adequately insured for the injury of  
7 its employees and any others incurring loss or injury as a result of the actions of Contractor  
8 or its employees or subcontractors in the performance of its obligations under this  
9 Agreement; and

10 I. Contractor has read and fully understands the terms, covenants and conditions set forth  
11 in this Agreement and is executing the same willingly and voluntarily of its own volition.

12 Section 3. Reliance on Representations, Warranties and Covenants. All representations,  
13 warranties, covenants and agreements made in this Agreement are intended to be material and  
14 shall be conclusively deemed to have been relied upon by the receiving party.

### 15 **ARTICLE III. COMPENSATION**

16 Section 1. Rate of Compensation. City shall compensate Contractor for the performance of the  
17 Services: \$20,000.00 flat rate fee payable in three equal installments of \$6666.66 (1<sup>st</sup> installment  
18 to be paid as a retainer to start the search process; 2<sup>nd</sup> installment paid after candidates are  
19 presented; 3<sup>rd</sup> installment paid upon completion of search) plus reimbursement of candidate  
20 interview and travel expenses.

21 City shall not be liable for any costs or expenses paid or incurred by Contractor in the  
22 performance of the Services, unless specific exception is provided herein.

23 Section 2. Truth-In-Negotiation. As of the Effective Date of this Agreement, Contractor  
24 represents and warrants that the rates charged City as set forth in this Article III for the

1 performance of the Services are no higher than those charged Contractor's most favored  
2 customer for the same or substantially similar services. In the event Contractor's "most favored  
3 customer" rates are reduced during the term of this Agreement, Contractor shall be obligated to  
4 promptly notify City of such reduction in writing, and such reduced rates shall apply to any services  
5 provided on or after the date that Contractor first reduced such rates. City shall have the right to  
6 enforce this provision for up to one (1) year following the termination of this Agreement.

7 Section 3. Detailed Monthly Invoices. As a prerequisite to payment, Contractor shall submit to  
8 City monthly invoices pursuant to Section 1 hereinabove, describing in detail, at a minimum, the  
9 services performed and time expended in the performance of such services.

10 Section 4. Maximum Compensation; Subject to Appropriation. City's obligation to compensate  
11 Contractor hereunder shall not at any time exceed the maximum compensation, in the aggregate,  
12 of \$30,000.00. Further, all compensation owed Contractor pursuant to this  
13 Agreement is contingent upon the appropriation and allocation of funds by City. It is understood  
14 that Scope Services, Inc. will not undertake any obligations under this contract without  
15 assurances that funds have been allocated by the Council of the City of New Orleans.

16 Section 5. No Payment for Services Beyond Scope of Agreement. Except as may be provided  
17 by laws governing emergency procedures, officers and employees of City are not authorized to  
18 request Contractor to provide additional services that would result in the performance of services  
19 beyond the scope set forth in Article I, unless this Agreement has been amended in accordance  
20 with its terms to authorize such additional services and/or expenditures. City shall not be  
21 required to reimburse Contractor for any services that are provided by Contractor that are beyond  
22 the scope of this Agreement, in the absence of a duly authorized executed amendment hereto.

23 Section 6. No Payments in Excess of Maximum Compensation. Officers and employees of City  
24 are not authorized to offer or promise to Contractor additional funding for the contract in excess

1 of the maximum amount of funding set forth above. Additional funding for services provided  
2 under this Agreement, unless this Agreement has been amended in accordance with its terms to  
3 authorize such increase and the Department of Finance has certified the availability of such  
4 additional funding. Absent the prior duly authorized amendment of this Agreement and the  
5 necessary certification of the Department of Finance, City shall not be required to honor—and  
6 will not remit to Contractor—any offered or promised additional funding for any of the Services  
7 performed pursuant to this Agreement in excess of the maximum amount set forth above.

8 **ARTICLE IV. TERM**

9 Section 1. Term. This Agreement shall commence on the Effective Date and shall continue until  
10 December 31, 2009. It is understood and acknowledged by Contractor that the Services  
11 described above are expected to be completed within this time period.

12 Section 2. Renewal. At the option of City, this Agreement may be renewed beginning  
13 January 1, 2010, provided that (A) additional funding, if required, is allocated by City and  
14 incorporated herein by a duly authorized amendment to this Agreement and (B) the renewal of  
15 this Agreement will facilitate the continuity of the services described herein.

16 **ARTICLE IV. NON-DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY**

17 Section 1. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor  
18 agrees not to discriminate on the basis, whether in fact or perception, of a person's race, color,  
19 creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic  
20 partner status, marital status, physical or mental disability or AIDS- or HIV-status against (A)  
21 any employee of or any City employee working with Contractor in any of Contractor's  
22 operations within Orleans Parish or (B) any person seeking accommodations, advantages,  
23 facilities, privileges, services, or membership in all business, social, or other establishments or  
24 organizations operated by Contractor. Contractor agrees to comply with and abide by all

1 applicable federal, state and local laws relating to non-discrimination, including, without  
2 limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973  
3 and the Americans with Disabilities Act of 1990.

4 Section 2. Equal Employment Opportunity. Contractor further agrees not to discriminate on the  
5 basis, whether in fact or perception, of a person's race, color, creed, religion, national origin,  
6 ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status,  
7 physical or mental disability or AIDS- or HIV-status against any applicant for employment with  
8 Contractor. Further, Contractor agrees to take affirmative action to ensure that that the  
9 applicants are considered for employment and that employees are treated during employment  
10 without unlawful regard to such person's race, color, creed, religion, national origin, ancestry,  
11 age, sex, sexual orientation, gender identity, domestic partner status, marital status, physical or  
12 mental disability or AIDS- or HIV-status. Such action shall include, without limitation, the  
13 following areas: employment, promotion, demotion, transfer or layoff; recruitment or  
14 recruitment compensation; and selection for training. Contractor agrees to post in conspicuous  
15 places, available to employees and applicants for employment, notices setting forth the  
16 provisions of this non-discrimination clause. Further, Contractor agrees all solicitations or  
17 advertisements for employees placed by or on behalf of Contractor shall state that all qualified  
18 applicants will receive consideration for employment without regard to race, creed, color, sex or  
19 national origin.

20 Section 3. Subcontracts. Any and all subcontracts by the Contractor relating to work under this  
21 contract shall be approved in advance by motion of the Council. The Council may require  
22 information on ownership interests in the subcontractor prior to approval of the subcontractor's  
23 retention. Contractor shall incorporate by reference in all subcontracts the provisions of this  
24 Article and shall require all subcontractors to comply with such provisions. Contractor's failure



1 to comply with the obligations in this subsection shall constitute a material breach of this  
2 Agreement.

3 **ARTICLE V. INDEMNIFICATION**

4 Section 1. Duty to Indemnify City Against Loss. To the fullest extent permitted by law,  
5 Contractor shall protect, defend, indemnify and hold harmless City, its agents, elected officials  
6 and employees (collectively, the “Indemnified Parties”) from and against all claims, actions,  
7 liabilities, losses (including, without limitation, economic losses) and costs, arising out of or  
8 related to (a) any actual or alleged act or omission in the performance of the Services by  
9 Contractor or any subcontractor or (b) any act outside the scope of the Services by Contractor or  
10 any subcontractor. By way of illustration—not limitation, Contractor’s obligation to indemnify  
11 City shall extend to the following, provided that such claims arise out of or relate to the  
12 performance of the Services by Contractor: (i) personal injury claims, (ii) property damage or  
13 loss claims, (iii) fines or sanctions resulting from violations of any law, statute, ordinance, rule,  
14 regulation or intellectual property rights by Contractor, and (iv) liens, claims or actions made by  
15 Contractor, any subcontractor or any employees thereof under workers compensation acts,  
16 disability benefits acts, other employee benefit acts or any statutory bar.

17 Section 2. Limit on Duty to Indemnify. Notwithstanding anything to the contrary herein,  
18 Contractor shall not be required to indemnify the Indemnified Parties for any loss that results  
19 from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that  
20 Contractor or any subcontractor did not contribute to such gross negligence or willful  
21 misconduct. . Contractor shall also not be required to indemnify any party to this agreement if  
22 the City Council or any agency or subdivision thereof disregards the advice of Contractor.

23 Section 3. Independent Duty to Defend. Contractor specifically acknowledges and agrees that it  
24 has an immediate and independent obligation to, at City’s option, (a) defend City from or (b)

1 reimburse City for its costs incurred in the defense of: any claim that actually or potentially falls  
2 within this Article V, even if the allegations are or may be groundless, false or fraudulent. This  
3 obligation shall remain in full force and effect even if Contractor is ultimately absolved from  
4 liability.

5 Section 4. Expenses. All expenses, including, without limitation, reasonable attorney fees,  
6 incurred by City in enforcing this Agreement shall be borne by Contractor.

7 **ARTICLE VI. INDEPENDENT CONTRACTOR STATUS**

8 Section 1. Independent Contractor Status. Contractor shall not be deemed an employee, servant,  
9 agent, partner or joint venturer of City. Rather, Contractor herein expressly acknowledges and  
10 agrees that it is providing services exclusively as an independent contractor to City, as such term  
11 is defined in La. Rev. Stat. 23:1021(6). As such, Contractor agrees that it shall not hold itself or  
12 any of its employees, subcontractors or agents to be an employee, partner or agent of City. Further,  
13 Contractor acknowledges and agrees that, as an independent contractor, neither Contractor nor  
14 any of its employees shall be entitled to receive any benefits that employees of City are entitled  
15 to receive, including, without limitation, workers' compensation coverage, unemployment  
16 compensation coverage, medical insurance, life insurance, paid vacations, paid holidays, sick  
17 leave, pension, or Social Security for any services rendered to City under this Agreement.

18 Section 2. No Withholding; Form 1099 Reporting. Contractor understands and agrees that (a) City  
19 will not withhold on behalf of Contractor any sums for any federal, state or local income tax,  
20 unemployment insurance, social security, or any other withholding pursuant to any law or  
21 requirement of any governmental body, and that City will not make available to Contractor any of  
22 the benefits afforded to employees of City; (b) all of such withholdings and benefits, if applicable,  
23 are the sole responsibility of Contractor; and (c) Contractor will indemnify and hold City harmless  
24 from any and all loss or liability arising with respect to any such withholdings and benefits. The

1 parties agree that if the Internal Revenue Service questions or challenges Contractor's independent  
2 contractor status, both Contractor and City shall have the right to participate in any discussion or  
3 negotiation with the Internal Revenue Service. Contractor acknowledges that all compensation paid  
4 to Contractor pursuant to this Agreement will be reported annually by City to the Internal Revenue  
5 Service on Form 1099.

6 Section 3. No Control of Method of Performing Services. City is interested only in the results  
7 obtained under this Agreement. With regard to Contractor's performance of the Services, nothing  
8 herein shall be construed as giving City control over (a) the manner or method of Contractor's  
9 performance or (b) the professional judgment of Contractor with respect to such performance. City  
10 waives any rights to direct, instruct or control Contractor as to the manner in which Contractor  
11 achieves the general and specific objectives, except that Contractor agrees to perform the Services  
12 in a manner designed to minimize delay, duplication of efforts, redundancy and expenses, including,  
13 without limitation, Contractor's compensation. In sum, Contractor agrees and shall be obligated to  
14 perform the Services in the most expeditious and economical manner consistent with the interests of  
15 City.

## 16 **ARTICLE VII. GOVERNING LAW, JURISDICTION AND VENUE**

17 Section 1. Governing Law. This Agreement shall be construed and enforced in accordance with  
18 the laws of the State of Louisiana, excepting its conflict of laws provisions.

19 Section 2. Exclusive Jurisdiction and Venue. For all claims arising out of or related to this  
20 Agreement, Contractor hereby consents and yields to the exclusive jurisdiction and venue of the  
21 Civil District Court for the Parish of Orleans and expressly waives any (A) pleas of jurisdiction  
22 based upon Contractor's residence and (B) right of removal to federal court based upon diversity  
23 of citizenship.

## 24 **ARTICLE VIII. RETENTION, ACCESS AND OWNERSHIP OF RECORDS**

1 Section 1. Retention. Contractor agrees to keep all such business records related to or arising  
2 out of this Agreement as would be kept by a reasonably prudent practitioner of Contractor's  
3 profession for a period of six (6) years after the termination of this Agreement. All accounting  
4 records shall be maintained in accordance with generally accepted principles and practices.

5 Section 2. Right to Audit; Access. At any time during normal business hours, upon receipt of  
6 reasonable notice and as often as City may deem necessary, Contractor shall make all data,  
7 records, reports and all other materials relating to this Agreement available to City for  
8 examination and copying. In addition, Contractor shall permit City to audit, and shall cooperate  
9 fully in any such audit of, all invoices, materials, payrolls, work papers, personnel records and  
10 other data necessary to enable City to verify the accuracy of Contractor's invoices for payment  
11 for the performance of the Services.

12 Section 3. Ownership. All data collected and all products of work prepared, created or modified  
13 by Contractor in the performance of its obligations under this Agreement, including, without  
14 limitation, any and all notes, tables, graphs, reports, files, computer programs, source code,  
15 documents, records, disks, original drawings or other such material, regardless of form and  
16 whether finished or unfinished, (collectively, "Work Product") shall become the exclusive  
17 property of City, and no reproduction of any portions of such Work Product may be made in any  
18 form without the express written consent of City. City shall have all right, title and interest in  
19 such Work Product, including, without limitation, the right to secure and maintain the copyright,  
20 trademark and/or patent of Work Product in the name of City. All such Work Product may be  
21 used and distributed for any purpose deemed appropriate by City without the consent of and for  
22 no additional consideration owing to Contractor.

## 23 **ARTICLE IX. TERMINATION**

24 Section 1. Termination for Cause. City and Contractor shall each have the right to terminate this

1 Agreement for cause, effective immediately upon the giving of written notice to the other party  
2 of its intent to terminate and the reasons therefor. If the termination for cause is subsequently  
3 challenged in a court of law and if the challenging party prevails, the termination for cause shall  
4 be deemed to be a termination for convenience and shall be effective thirty (30) days from the  
5 date that the original written notice of termination for cause was given to the challenging party  
6 and no further notice shall be required.

7 Section 2. Termination for Convenience. City and Contractor shall each have the right to  
8 terminate this Agreement without cause by giving the other party written notice of its intent to  
9 terminate at least thirty (30) days prior to the date of termination. In the event City elects to  
10 terminate for convenience, City shall be obligated to pay Contractor only for those Services  
11 performed up to and through the date of termination.

12 Section 3. Survival of Certain Provisions. All representations and warranties and all  
13 responsibilities regarding record retention, access and ownership, cooperation with City  
14 Inspector General investigations, indemnification and payment for services rendered shall  
15 survive the termination of this Agreement and continue in full force and effect.

16 **ARTICLE X. INSURANCE**

17 During the term of this Agreement, Contractor shall, at all times, maintain (a) adequate worker's  
18 compensation and unemployment insurance coverage for its employees in accordance with state  
19 law and (b) comprehensive general liability insurance in amounts not less than \$1,000,000 per  
20 occurrence.

21 **ARTICLE XI. NOTICE**

22 Section 1. Any notice, demand, communication or request required or permitted hereunder shall  
23 be in writing and delivered in person or by certified mail, return receipt requested as follows:

24 If to City: Evelyn F. Pugh, Interim Council Chief of Staff

1 New Orleans City Council, Room 1E06

2 City Hall, 1300 Perdido St.

3 New Orleans, Louisiana 70112

4 and Penny M. Moses-Fields

5 City Attorney

6 City of New Orleans

7 1300 Perdido St., Room 5E03

8 New Orleans, LA 70112

9 If to Contractor: Lydia Demski, President

10 Scope Services, Inc.

11 2095 Niles Road

12 St. Joseph, MI 49085

13 Section 2. Notices shall be effective when received by each of the above-referenced individuals  
14 at the addresses specified above. Each party shall be responsible for notifying the other in  
15 writing of any changes in the respective addresses set forth above.

16 Section 3. Nothing contained in this Article shall be construed to restrict the transmission of  
17 routine communications between representatives of City and Contractor.

18 **ARTICLE XII**

19 **GENERAL PROVISIONS**

20 Section 1. No Assignment Without Consent. This Agreement is personal to each of the parties  
21 hereto, and neither party may assign or delegate any rights or obligations hereunder without first  
22 obtaining the written consent of the other party. Subcontractors must be approved by Motion of the  
23 City Council.

24 Section 2. Conflict of Interest.

1 Contractor agrees to decline any offer of work, whether as an independent contractor or  
2 employee, if such work would (a) affect Contractor's independent professional judgment with  
3 respect to its performance of the Services or (b) in any way interfere with Contractor's ability to  
4 discharge any of its obligations under this Agreement. The initial determination of whether any  
5 offer of work would present such a conflict of interest shall rest with Contractor. However,  
6 Contractor shall be obligated to notify the Council Chief of Staff and provide full disclosure as to  
7 any possible adverse effects of such work as it relates to Contractor's independent professional  
8 judgment or the discharge of any of its obligations under this Agreement. Final decision as to  
9 whether any such work proposes a prohibited conflict of interest shall rest with the Council of  
10 the City of New Orleans. Such decision by the Council as to whether any such work constitutes  
11 a prohibited conflict of interest should be made only after the Council seeks advice from the City  
12 Attorney. The City Attorney may provide any advice to the Council that he/she deems  
13 appropriate.

14 Section 3. Audit and Other Oversight: The Contractor understands and will abide by all  
15 provisions of the Code of the City of New Orleans, Chapter 2, Art. XIII, Sect. 2-1120, (relative  
16 to the operations and authority of the City Inspector General), incorporated herein by reference.

17 Section 4. Non-waiver. The failure of either party to insist upon strict compliance with any  
18 provision of this Agreement to enforce any right or to seek any remedy upon discovery of any  
19 default or breach of the other party at such time as the initial discovery of the existence of such  
20 noncompliance, right, default or breach shall not affect, nor constitute a waiver of, any party's  
21 right to insist upon such compliance, exercise such right or seek such remedy with respect to that  
22 default or breach or any prior, contemporaneous or subsequent default or breach.

23 Section 5. Severability. The parties hereto intend all provisions of this Agreement to be  
24 enforced to the fullest extent permitted by law. Accordingly, should a court of competent

1 jurisdiction find any provision to be unenforceable as written, the parties intend and desire that  
2 the court should reform the provision so that it is enforceable to the maximum extent permitted  
3 by law. If, however, the court should find such provision to be illegal and not subject to  
4 reformation, such provision shall be fully severable. In such event, this Agreement shall be  
5 construed and enforced as if such illegal, invalid or unenforceable provision was never a part  
6 hereof, and the remaining provisions of this Agreement shall remain in full force and effect.

7 Section 6. Exhibits. The following Exhibits shall be and hereby are incorporated into this  
8 Agreement as if fully rewritten herein:

- 9 Exhibit A Corporate Resolution—Authorization to Sign;
- 10 Exhibit B Credentials—Resumés, Licenses or Certifications; and
- 11 Exhibit C IRS Form W-9.

12 Section 7. Rules of Construction. The headings and captions of this Agreement are provided for  
13 convenience only and are not intended to have effect in the construction or interpretation of this  
14 Agreement. Whenever herein the singular number is used, the same shall include the plural,  
15 where appropriate, and neutral words and words of any gender shall include the neutral and other  
16 gender, where appropriate. Neither this Agreement nor any uncertainty or ambiguity herein shall  
17 be construed or resolved in favor of or against City or Contractor on the basis of which party  
18 drafted the uncertain or ambiguous language. On the contrary, this Agreement has been  
19 reviewed by all parties and shall be construed and interpreted according to the ordinary meaning  
20 of the words used so as to fairly accomplish the purposes and intentions of all parties hereto.

21 Section 8. Amendment. No amendment of or modification to this Agreement shall be valid  
22 unless and until executed in writing by the duly authorized representatives of both parties to this  
23 Agreement.

24 Section 9. No Third-Party Beneficiaries. This Agreement is entered into for the exclusive



1 benefit of the parties, and the parties expressly disclaim any intent to benefit anyone not a party  
2 hereto.

3 Section 10. Time is of the Essence. City and Contractor each acknowledge and agree that time  
4 is of the essence in the performance of this Agreement.

5 Section 11. Non-Exclusive. This Agreement shall be non-exclusive. Accordingly, Contractor  
6 shall be free to provide services to other clients, and City shall be free to engage the services of  
7 other contractors for the provision of some or all of the Services set forth in this Agreement.

8 Section 12. Prohibition Against Financial Interest in Agreement. No elected official or  
9 employee of City shall have a financial interest, direct or indirect, in this Agreement. For  
10 purposes of this Section, a financial interest held by the spouse, child or parent of any elected  
11 official or employee of City shall be deemed to be a financial interest of such elected official or  
12 employee of City. Any willful violation of this provision, with the expressed or implied  
13 knowledge of Contractor, shall render this Agreement voidable by City and shall entitle City to  
14 recover, in addition to any other rights and remedies available to City, all monies paid by City to  
15 Contractor pursuant to this Agreement without regard to Contractor's satisfactory performance  
16 of such Services.

17 Section 13. Remedies Cumulative. No remedy set forth in this Agreement or otherwise  
18 conferred upon or reserved to any party shall be considered exclusive of any other remedy  
19 available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and  
20 each may be exercised from time to time as often as the occasion may arise or as may be deemed  
21 expedient.

22 Section 14. Complete Agreement. Contractor, Scope Services, Inc.,  
23 specifically acknowledges that in entering into and accepting this Agreement (comprised of 20  
24 pages), Contractor relies solely upon the representations and agreements contained in this

1 Agreement and no others. This Agreement supersedes and replaces any and all prior agreements,  
2 negotiations and discussions between the parties hereto with regard to the terms, obligations and  
3 conditions herein.

4 IN WITNESS WHEREOF:

CITY OF NEW ORLEANS

5

6

7

8

9

10

11

12

13

14

15

16

17

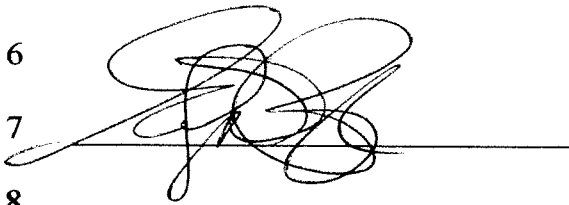
18

19

20

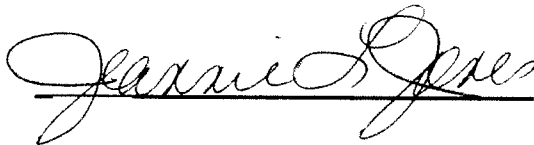
21

22



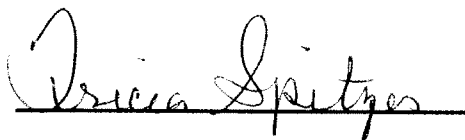
BY: ARNIE FIELKOW

COUNCIL PRESIDENT



IN WITNESS WHEREOF:

SCOPE SERVICES, INC.



BY: LYDIA DEMSKI

2095 Niles Road

St. Joseph, MI 49085

Taxpayer Identification Number: 38-2497854

APPROVED: 

LAW DEPARTMENT

MOTION  
M-09-498

CITY HALL: September 17, 2009

BY: COUNCILMEMBERS FIELKOW, CLARKSON, CARTER, HEAD, HEDGECOCK, MURRELL, MIDURA,  
AND WILLARD-LEWIS

WHEREAS, Council Rule 45 establishes a competitive selection process for the selection of professional services contractors to the City Council; and

WHEREAS, on June 18, 2009, the City Council adopted Motion M-09-281, directing Council staff to issue a Request for Proposals (RFP) relative to the competitive selection process established by Council Rule 45 seeking the services of a recruitment services firm to identify and recruit qualified candidates for the recently vacated position of Council Utilities Regulatory Officer; and

WHEREAS, a Request for Proposals relative to the recruitment services was issued on June 24, 2009; and

WHEREAS, by the advertised deadline, eight (8) responses to the RFP were received; and

WHEREAS, as directed, the staff Selection Review Committee evaluated the submissions and, pursuant to Council Rule 45, eliminated the submission of three of the applicants prior to forwarding the remaining five (5) submissions to the Utility Committee for its consideration; and

WHEREAS, on September 10, 2009, the Utility Committee referred to the full Council for its consideration the selection of the recruitment services firm; and

WHEREAS, on September 17, 2009, the Council discussed the qualifications of the five firms remaining under consideration; now, therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS That Scope Services, Inc. of St. Joseph, Michigan be and it is hereby retained to perform the recruitment services requested in the Request for Proposals issued on June 24, 2009 relative to recruitment services to fill the vacant position of Council Utilities Regulatory Officer on terms and conditions expressed in the June 24, 2009 Request for Proposals and in the August 7, 2009 submission of Scope Services, Inc.;

BE IT FURTHER MOVED That the President of the City Council is hereby authorized and requested to sign a professional services contract to retain Scope Services, Inc. to perform recruitment services relative to the Council Utilities Regulatory Officer position in accordance with the foregoing.

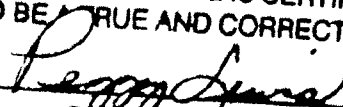
THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS: Fielkow, Head, Hedge-Morrell, Midura, Willard-Lewis - 5

NAYS: 0

ABSENT: Carter, Clarkson - 2  
AND THE MOTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED  
TO BE TRUE AND CORRECT COPY

  
CLERK OF COUNCIL