

K10-886

AGREEMENT

FOR PROFESSIONAL SERVICES BETWEEN

THE CITY OF NEW ORLEANS

AND

UDDO, BEATMANN & CODE /BASILE J. UDDO

THIS AGREEMENT is made and entered into as of the 1st day of January 2010, by and between the City of New Orleans, herein represented by Arnie Fielkow, President of the Council of the City of New Orleans (hereinafter referred to as "City"), and the law firm of Uddo, Beatmann & Code/Basile J. Uddo (herein represented by "Contractor").

WITNESSETH

WHEREAS, the City Council desires to engage qualified and professional service consultants to provide cable/telecommunications consulting services to the City Council; and

WHEREAS, pursuant to Rule 45, the City Council adopted Motion M-09-430, directing the Council staff to issue a Request for Qualifications to initiate a competitive selection process to obtain consultants with expertise essential to assisting the Council in cable/telecommunications issues; and

WHEREAS, a Request for Qualifications relative to cable/telecommunications services was issued on August 20, 2009; and

WHEREAS, by September 17, 2009 deadline four (4) responses to the Requests for Qualifications were received which were reviewed by the Council Staff Competitive Selection Committee, and on November 4, 2009, the Council Cable and Telecommunications Committee met and recommended that the City Council approved the selection of the joint submission of Goins Aaron, P.L.C., the Media Revolution, Inc. and Uddo, Beatmann and Code/Basile J. Uddo to provide

1 a full complement of cable/telecommunications consulting services to the City Council; and

2 **WHEREAS**, by Motion M-09-621 the City Council approved the recommendation of the
3 Cable and Telecommunications Committee that the firm of Uddo, Beatmann and Code/Basile J.
4 Uddo be retained to provide cable/telecommunications matters; and

5 **WHEREAS**, the Council by Motion M-09-670 authorized the President of the Council to sign
6 a professional service contract with the law firm of Uddo, Beatmann and Code/Basile J. Uddo for the
7 contract amount as specified herein; and

8 **NOW, THEREOF**, the City of New Orleans and the firm of Uddo, Beatmann and
9 Code/Basile J. Uddo for the consideration, and under conditions set forth, do agree as follows:

10 **I. SCOPE OF SERVICES**

11 **A. Contractor Agrees To:**

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

- 15 1. Drafting, commenting on, and revision of ordinances resolutions, motions
16 and other legal instruments necessary to effectuate the Council's policy goals;
17 and
18 2. Drafting, commenting on, and revision of leases, franchises, permits and
19 renewals thereof with cable/telecommunications providers.
20 3. Monitoring and advising the Council on developments in state and federal
21 law, interpretations thereof, and actions of other state and federal
22 administrative agencies; and

1 4. Assistance in implementation of cable access plans, the institutional network
2 Services Agreement, and monitoring of compliance of
3 cable/telecommunications providers with franchises, permits, leases and other
4 agreement with the City;

5 5. Act as special counsel to the City Council with respect to
6 cable/telecommunications matters;

7 5. Any other services necessary and relevant to assisting the Council in
8 formulating and implementing its cable/telecommunications policy goals.

9 B. The City Agrees To:

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

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

15 II. COMPENSATION

16 The compensation to be paid for services rendered will be the hourly billing rate of:

17 Senior attorneys (over 10 years experience)	\$300.00 per hour
18 Senior attorneys (7-10 years experience)	\$225.00 per hour
19 Junior attorneys (3-6 years experience)	\$175.00 per hour
20 Junior attorneys (0-2 years experience)	\$125.00 per hour
21 Non-attorneys/paralegals	\$70.00 per hour

22 The compensation to be paid to the law firm of Uddo, Beatmann and Code/Basile J.

23 Uddo for such services shall not exceed One Hundred Sixty Thousand Dollars

1 (\$160,000.00). If there any necessary and ordinary expenses attached to the work of
2 the firm of Uddo, Beatmann and Code these expenses, in addition to the fees shall
3 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00). The firm of Uddo,
4 Beatmann and Code/Basile J. Uddo shall submit to the City a detailed monthly
5 invoice for payment of services provided. This agreement is contingent upon the
6 appropriation and allocation of funds by the City of New Orleans.

7 **III. EQUAL EMPLOYMENT OPPORTUNITY**

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

21 **IV. ASSIGNABILITY**

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

1 V. **CONFLICT OF INTEREST**

2 In the interest of ensuring that efforts of the Contractor do not conflict with the interest of the
3 City, and in recognition of Contractor's professional responsibility to the City, the
4 Contractor agrees to decline any offer of employment if its independent, professional work
5 on behalf of the City is likely to be adversely affected by the acceptance of such employment.

6 The initial determination of such a possibility rests with the Contractor. It is incumbent
7 upon the Contractor to notify the City and provide full disclosure of the possible effects of
8 such employment on the Contractor's independent, professional work in behalf of the City.

9 Final decision on any disputed offers of other employment for the Contractor shall rest with
10 the City.

11 VI. **INDEMNIFICATION**

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

20 VII. **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION**
21 **COVERAGE**

22 The Contractor herein expressly agrees and acknowledges that it is an independent
23 Contractor as defined in R. S. 23:1021 (6) and as such, it is expressly agreed and understood

1 between the parties hereto, in entering into this professional services contract, that the City of
2 New Orleans shall not be liable to the Contractor for any benefits or coverage as provided by
3 the Worker's Compensation Law of the State of Louisiana, and further, under the provisions
4 of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of
5 the City for the purpose of Worker's Compensation Coverage.

6 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**
7 **COMPENSATION COVERAGE**

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

- 13 A. The Contractor has been and will be free from any control or
14 direction by the City, over the performance of the services covered by
15 this contract; and
- 16 B. Service(s) to be rendered by the Contractor are outside the normal
17 course and scope of the City's usual business; and
- 18 C. The Contractor has been independently engaged in performing
19 services listed herein prior to the date of this contract.

20 Consequently, neither the Contractor nor anyone employed by the Contractor shall
21 be considered an employee of the City for the purpose of unemployment
22 compensation coverage, the same being hereby expressly waived and excluded by the
23 parties hereto.

1 **IX. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS**

2 It is expressly agreed to and understood between the parties entering into this
3 professional services contract that the Contractor, acting as an independent agent, and
4 its agents assigned and employees shall not receive any sick and annual leave benefits
5 from the City of New Orleans.

6 **X. JURISDICTION**

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

10 **XI. DURATION OF AGREEMENT**

11 The services to be provided under the terms of this Agreement shall begin on January 1, 2010
12 and shall end no later than December 31, 2010. It is understood and acknowledged by all
13 signators to this Agreement that work described under these terms is to be accomplished
14 during the time period specified herein. The terms, conditions and duration of this contract
15 may be modified by an executed, written amendment to this contract.

16 **XII. EXTENSION**

17 This agreement may be extended at the option of the City, provided that funds are allocated
18 by the Council of the City of New Orleans and the extensions of the agreement facilitate the
19 continuity of services provided herein. This agreement may be extended by the City on an
20 annual basis for no longer than four additional one year periods.

21 **XIII. CANCELLATION**

22 Either party of this contract may terminate the contract at any time during the term of
23 the contract by giving the other party written notice of said intention to terminate at

1 least thirty (30) days before the date of termination.

2 **XIV. SOLICITATION**

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

8 **XV OFFICE OF INSPECTOR GENERAL**

9 The Contractor understands and will abide by all provisions of the Code of the City of New
10 Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888
11 M.C.S., (relative to the operations and authority of the City Inspector General), incorporated
12 herein by reference.

13 **XVI. SUBCONTRACTS.**

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

21 **XVII. SEVERABILITY**

22 In the event a Court of competent jurisdiction finds any clause or provisions pertaining to the
23 retention of Contractor invalid, unless said Court expressly states otherwise, said findings


1 shall not affect Contractor's right to continue providing utility-related legal services to the
2 City with respect to any clause or provision not found to be invalid.
3 For the consideration and under the conditions set forth above, the Contractor has agreed to
4 perform the specified services for the City of New Orleans.

5 IN WITNESS WHEREOF:

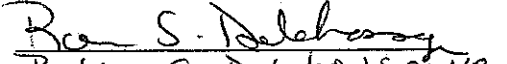
6 ATTEST

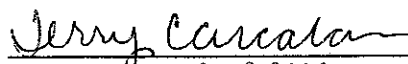
7 _____
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9 _____

CITY COUNCIL


Arnie Fielkow
City Council President

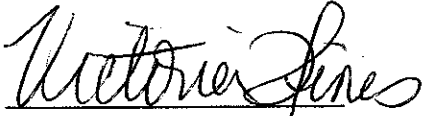
10 Uddo Beatmann & Code/Basile J. Uddo

11 
Robin S. Delachoussaye

12 
13 Terry Carcaban
14 TERRY CARCABAN
15



By: Basile J. Uddo.
Suite 724
3445 North Causeway Blvd.
Metairie, LA 70002

16 Approved:  72-1508572
17 Law Department Taxpayer ID Number

MOTION
M-09-670



CITY HALL: December 7, 2009

BY: COUNCILMEMBERS CARTER, CLARKSON, WILLARD-LEWIS AND HEDGE-MORRELL

WHEREAS, pursuant to the City Charter the City Council has franchise authority with respect to Cable and Telecommunications providers; and

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

WHEREAS, to address important Cable/Telecommunications matters, the Council has selected Cable / Telecommunications consultant persons and firms to assist and advise the Council in accordance with the competitive selection process required by the Home Rule Charter and established by Council Rule 45.

WHEREAS, by Motion M-09-621, after competitive selection, the City Council authorized retention of Basile J. Uddo/Uddo Beatman and Code to continue to act as special counsel to the City Council in connection with Cable and Telecommunications matters; and

WHEREAS, by Motion M-09-621 and the terms of the Request For Qualifications issued on August 20, 2009, the Council has authorized a new contract with Basile J. Uddo/Uddo Beatman and Code to act as special counsel to the City Council in connection with Cable and Telecommunications matters; and

WHEREAS, the Council desires to authorize a contract with Basile J. Uddo/Uddo Beatman and Code to assist in meeting the Council's responsibility to the City and its citizens; now, therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the President is requested and authorized to sign a new contract with the firm of Basile J. Uddo/Uddo Beatman to provide consulting services to the City Council for a maximum compensation under such contract up to One Hundred Sixty Thousand Dollars (\$160,000.00).

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the contract and/or contract amendment shall add a statement that pursuant to Chapter 2, Article XVIII of the City Code relative to the office of Inspector General that the contractor understands and will abide by all provisions of that Chapter.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the contract shall be circulated in accordance with normal process and the City Council Rules.

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

YEAS: Clarkson, Fielkow, Hedge-Morrell, Willard-Lewis - 4

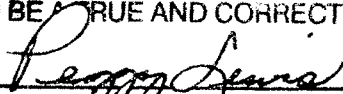
NAYS: Midura - 1

ABSENT: Carter, Head (Temporarily Out of Chamber) - 2

AND THE MOTION WAS ADOPTED.

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THE FOREGOING IS CERTIFIED
TO BE TRUE AND CORRECT COPY


CLERK OF COUNCIL