

1                                   **AGREEMENT FOR PROFESSIONAL SERVICES**

2   **BETWEEN**

3   **THE CITY OF NEW ORLEANS**

4   **AND**

5   **THE ESTOPINAL GROUP**

6           THIS AGREEMENT made this 1st day of January 2012 by and between the City of  
7 New Orleans, herein represented by Jacquelyn Brechtel Clarkson, Council President (hereinafter  
8 referred to as "the City"), and The Estopinal Group, (hereinafter referred to as "Contractor").

9   **W I T N E S S E T H**

10           **WHEREAS**, the City Council recognizes the need for effective communications between the  
11 Council and the public, and between the Council and the news media; and

12           **WHEREAS**, following completion of a Request for Qualifications process conducted in  
13 compliance with Council Rule 45, Motion 11-580 of December 15, 2011 authorized a professional  
14 services contract to retain The Estopinal Group as the Council's Communications Consultant; and

15           **WHEREAS**, The Estopinal Group, whose Taxpayer ID Number is 208630628, possesses the  
16 required skills and experience, and is willing to provide the services requested by the Council; and

17           **WHEREAS**, the Council wishes to take advantage of the knowledge and experience gained  
18 by the consultant and to that end has adopted Motion M-11-580 authorizing the Council President to  
19 sign a professional services contract to retain The Estopinal Group as Communications Consultant to

20 the Council; and

1           **WHEREAS**, the City recognizes and acknowledges its responsibility to provide Contractor  
2 accurate information in a timely manner and that the provision of such information is an important  
3 factor in Contractor's ability to successfully perform under this contract; now, therefore

4 **I.     SCOPE OF SERVICES**

5           **A.     CONTRACTOR AGREES TO:**

- 6           1.     Develop strategy for consistent, informative communication from the Council to the  
7                   public regarding issues coming before the Council and its committees and actions  
8                   regarding such issues, including the initiation of ideas on when and how to best inform  
9                   the public.
- 10          2.     Arrange for and coordinate media coverage of issues before the Council as a whole  
11                   and its committees, including organizing press conferences and interviews and  
12                   arranging appearances on appropriate media outlets.
- 13          3.     Assist in the development of educational materials, news stories and briefing  
14                   documents on long term concerns, as well as current issues, to improve the quality  
15                   and consistency of information provided to the public, including the writing of  
16                   technical information in easily readable and understandable form and issuing press  
17                   releases prior to and following Council/Committee meetings.
- 18          4.     Coordinate Council use of the Government Services Access Cable T.V. channel with  
19                   the government services access provider.
- 20          5.     Make recommendations to the Council on more effective and informative presentation  
21                   of Council meetings on cable television.
- 22          6.     Advise Councilmembers and Council staff on public notices and similar  
23                   communications intended for the press and general public.
- 24          7.     Continue development and use of communication technologies (e.g. Internet, other

1 interactive media, etc.) for and on behalf of the Council.

- 2 8. Pursuant to Council Rule 46, on or before February 15<sup>th</sup> of each year: A) develop an  
3 agenda of action items that reflect the policy decisions established by the Council at its  
4 annual retreat in the previous fall; B) prepare and distribute to the public a summary  
5 of Council accomplishments, including legislative action and projects completed  
6 during the preceding year by the Council as a whole and by individual Council offices.
- 7 9. Maintain and recommend improvements to the Council's website and ensure that  
8 items of public interest are consistently posted in a timely manner. Implement  
9 improvements to the website approved by the Council Chief of Staff.
- 10 10. Provide a camera or other photographic equipment at each committee or council  
11 meeting staffed by the contractor in order to photographically document significant  
12 events and/or visiting dignitaries.
- 13 11. Seek the approval of the Council Chief of Staff prior to subcontracting with any  
14 individual or entity to perform any services described herein.

15 **B. THE CITY AGREES:**

- 16 1. To use best efforts to provide Contractor access to information necessary to  
17 Contractor's successful performance of its duties under the contract.
- 18 2. That the Contractor may request review of any proposed documents, materials or  
19 communications of a public information nature. If request for review is approved, the  
20 City will endeavor to provide such proposed documents, materials or communications  
21 in a timely manner and in advance of the anticipated publication date of such proposed  
22 documents, materials or communications.

1 **II. COMPENSATION:**

- 2 A. 1. All services will be billed at rates ranging from \$75.00 to \$125.00 per hour,  
3 representing a variety of levels of professional service.
- 4 2. Maximum compensation shall not exceed \$125,000.00.
- 5 B. Invoices shall contain an itemized list of services performed.
- 6 C. Invoices shall be paid within thirty (30) days of receipt; payments over thirty (30) days  
7 but less than forty-five (45) days at amount plus 1.5%; payments over 45 days at  
8 amount plus 5%, subject to II A 2 above

9 **III. EQUAL EMPLOYMENT OPPORTUNITY:**

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

22 **IV. ASSIGNABILITY:**

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

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 the Contractor's professional responsibility to the City, the  
4           Contractor agrees to decline any offer of employment if its independent professional work on  
5           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 upon  
7           the Contractor to notify the City Council 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           Council. Final decision on any disputed offers of other employment for the Contractor shall  
10          rest with the City Council.

11   **VI. INDEMNIFICATION:**

12          The Contractor shall indemnify and save harmless the City of New Orleans against any and all  
13          claims, demands, suits, judgments or sums of money to any party accruing against the City for  
14          loss of life or injury or damage to persons or property growing out of, resulting from, or by  
15          reasons of any act or omission of the operations of the Contractor, their 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 hereinunder, and shall also hold the  
18          City harmless from any and all claims and/or liens for labor, services, or materials furnished to  
19          the Contractor in connection with the performance of their obligation under this Agreement  
20          unless such labor, services, or materials have been specifically authorized, in writing and in  
21          advance, through an appropriate purchase order or purchasing memo signed by an authorized  
22          representative of the City.

1 **VII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION**  
2 **COVERAGE:**

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

10 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**  
11 **COMPENSATION COVERAGE:**

12 Contractors herein expressly declare and acknowledge that they are independent Contractors,  
13 and as such are being hired by the City under this contract of hire as noted and defined in R.S.  
14 23:1472 (E), and therefore, it is expressly declared and understood among the parties hereto,  
15 in entering into this personal services contract, or contract for hire, and in connection with  
16 unemployment compensation coverage only, that:

- 17 A. Contractor has been and will be free from any control or direction by the City over the  
18 performance of the services covered by this contract; and
- 19 B. Service(s) to be performed by Contractor is outside the normal course and scope of  
20 the City's usual business; and
- 21 C. Contractor has been independently engaged in performing the service(s) listed herein  
22 prior to the date of this contract. Consequently, neither Contractor nor anyone  
23 employed by Contractor shall be considered an employee of the City for the purpose  
24 of unemployment compensation coverage, the same being hereby expressly waived

1 and excluded by the parties hereto.

2 **IX. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:**

3 It is expressly agreed and understood among the parties entering into this personal services  
4 contract that the Contractor, acting as an independent agent, shall not receive any sick and  
5 annual leave benefits 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 the residence elsewhere of the undersigned contractor.

10 **XI. DURATION OF AGREEMENT:**

11 This service to be provided under the terms of this agreement shall be begin on  
12 January 1, 2012 and end no later than December 31, 2012.

13 **XII. EXTENSION:**

14 This agreement may be extended at the option of the City, provided that funds are allocated  
15 by the Council of the City of New Orleans and the extension of the agreement facilitates the  
16 continuity of services provided herein. This agreement may be extended by  
17 the City on an annual basis for no longer than three one year periods, beginning  
18 January 1, 2012.

1 **XIII. CANCELLATION:**

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

5 **XIV. CONVICTED FELON:**

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

10 **XV. NON-SOLICITATION:**

11 The Contractor swears that it has not employed or retained any company or person, other  
12 than  
13 a bona fide employee working solely for him, to solicit or secure the subject contract. The  
14 Contractor has not paid or agreed to pay any person, other than a bona fide employee working  
15 for him, any fee, commission, percentage, gift, or any other consideration contingent upon or  
16 resulting from the subject contract.

17 **XVI. INSPECTOR GENERAL COOPERATION:**

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



1 **XVII. OWNERSHIP INTEREST:**

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

10 **XVIII. SUBCONTRACTOR REPORTING:**

11 The Contractor shall provide a list of all persons, natural or artificial, who are retained by the  
12 Contractor at the time of the contract's execution and who are expected to perform work as  
13 subcontractors in connection with the Contractor's work for the city. In regard to any  
14 subcontractor proposed to be retained by the Contractor to perform work on the contract  
15 with the city, the Contractor must provide notice to the city within 30 days of retaining said  
16 subcontractor. If the Contractor fails to submit the required lists and notices, the City may,

1 after 30 days' written notice to the prime Contractor, take such action as may be necessary  
2 to cause the suspension of any further payments until such the required lists and notices  
3 are submitted.

4 IN WITNESS THEREOF:

CITY OF NEW ORLEANS

5  
6 Alex Stefford  
7  
8  
9  
10  
11  
12

Jacquelyn B. Clarkson  
13 Jacquelyn Brechtel Clarkson, Council President

14 THE ESTOPINAL GROUP

15  
16 Denise Estopinal  
17 By: Denise Estopinal

18 501 Basin Street, Suite B  
19 New Orleans, Louisiana 70112  
20 Telephone: (504) 296-9233  
21 Taxpayer I.D. Number 208630628

**FORM AND LEGALITY APPROVED:**

[Signature]  
Law Department, City of New Orleans