

K14-374

1 **AGREEMENT FOR PROFESSIONAL SERVICES**
2 **BETWEEN**
3 **THE CITY OF NEW ORLEANS**
4 **AND**
5 **CURRY & FRIEND, PLC**
6

7 THIS AGREEMENT made this 1st day of March, 2014 ("Effective Date"), by and
8 between the City of New Orleans, herein represented by Stacy S. Head
9 Council President (hereinafter referred to as "the City"), and CURRY & FRIEND, PLC,
10 represented by Guy C. Curry, Owner and Managing Partner (hereinafter referred to as
11 "Contractor").

12 **W I T N E S S E T H**
13

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

16 **WHEREAS**, the Council's Competitive Selection Committee oversees the
17 selection of professional services contractors when there is not an existing Council
18 committee under whose purview the proposed contract already falls; and

19 **WHEREAS**, on August 22, 2013, the City Council adopted Motion M-13-294,
20 directing Council staff to issue a Request for Qualifications (RFQ) relative to the
21 competitive selection process established by Council Rule 45 relative to the services of
22 special counsel for the City Council; and

23 **WHEREAS**, a Request for Qualifications relative to the special counsel position
24 was issued on August 22, 2013; and

25 **WHEREAS**, by the advertised deadline, four (4) responses to the RFQ were
26 received; and

27 **WHEREAS**, as directed, the staff Selection Review Committee evaluated the
28 submissions and after review forwarded the four (4) submissions to the Competitive
29 Selection Committee for its consideration; and

30 **WHEREAS**, by Motion M-14-71, adopted by the Council on March 13, 2014, the
31 Council authorized and requested the Council President to sign a professional services
32 contract to retain Curry & Friend, PLC, as special counsel to the City Council; now

1 therefore,

2

3

ARTICLE I. SCOPE OF SERVICES

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

5 **A.** In accordance with the procedure detailed herein in Article I, Section 1 B., when it is
6 determined that a) there are conflicts or potential conflicts between the executive branch
7 and the City Council and/or b) the Council's best interest will be served through the
8 Council's receipt of advice and guidance of special counsel, contractor agrees to assist
9 the Council with legal and policy matters where advice independent of the Department
10 of Law is desired related to the legislative powers, regulatory powers and/or other
11 functions of the City Council and which are not in conflict with and do not usurp the
12 powers and functions that are provided exclusively to the City Attorney or Law
13 Department under the City Charter.

14 **B.** At the direction and under the supervision of the Council's Chief of Staff, the
15 Contractor, in cooperation with Don A. Rouzan & Associates will provide services to the
16 Council as a whole and its Committees. Services of Special Counsel Firms (Curry &
17 Friend and Don A. Rouzan & Associates) shall be provided pursuant to the following
18 process: a) by Council motion; or b) upon the request of one or more Councilmembers
19 with the approval of the Council President, or if the Council President makes the
20 request, with the approval of the Council Vice-President, subject, however, to
21 disapproval by a majority of all members of the Council at its next regular or special
22 meeting. The Councilmember(s) requesting the services of special counsel may
23 identify/specify the firm/attorney that he or she desires to perform each task, and in the
24 absence of such indication, the Council's Chief of Staff may allocate the assignments
25 approximately equally among the special council firms. The Council Chief of Staff (COS)
26 shall serve as contract manager for the special counsel; and accordingly (i) after
27 compliance with the procedural process indicated hereinabove, special counsel may
28 receive specific work assignments through the COS; (ii) the special counsel shall give
29 the COS immediate notice of work authorized herein and COS shall, in turn,
30 immediately notify all Councilmembers of same; and (iii) the COS shall review all bills
31 submitted to ensure that all services reflected in the bills or invoices are authorized as

1 provided herein or otherwise authorized by the Council. The COS shall work with
2 Special Counsel Firms (Curry & Friend and Don A. Rouzan & Associates) to ensure that
3 work distributed by the Council is divided more or less equally between them, and in the
4 event of a substantial or comprehensive project, that Special Counsel Firms (Curry &
5 Friend and Don A. Rouzan & Associates) will work together on the same subject. The
6 responsible attorneys at the Special Counsel Firms (Curry & Friend and Don A. Rouzan
7 & Associates) will meet or conference approximately every six (6) weeks as necessary
8 to report workload, progress, processes, and format to ensure a quality and consistent
9 product for the Council and an approximately even distribution of assignments for the
10 Special Counsel Firms

11 **C.** In conjunction with A and B above, the duties of special counsel may include but are
12 not necessarily limited to the following illustrative list of examples:

- 13 • Review of ordinances, motions, resolutions, and related documents prior to and
14 subsequent to introduction, and provide analysis as requested
- 15 • Attendance at Council or committee meetings or other meetings as requested
- 16 • Review of contract documents
- 17 • Review of state and federal legislation or administrative rules
- 18 • Review of City Attorney opinions, Attorney General opinions, and court or
19 administrative decisions or orders
- 20 • Attendance at executive sessions
- 21 • Review and analysis of litigation
- 22 • Performance of such other legal services and provision of policy advice related to
23 the legislative powers and functions of the City Council pursuant to the Home
24 Rule Charter that are not in conflict with and do not usurp the powers and
25 functions of the City Attorney or Law Department under the Charter.

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

- 27 1. Provide administration of the Agreement through the City Council Chief of
28 Staff (COS); and
- 29 2. Provide access to all personnel and records deemed necessary for the
30 performance of the Services by Contractor.

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4 **ARTICLE II. REPRESENTATIONS AND WARRANTIES**

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

- 6 A. City has the legal authority to enter into this Agreement; and
7 B. The undersigned Council President has the authority to execute this Agreement
8 on behalf of City.

9 Section 2. Representations and Warranties of Contractor. Contractor represents and
10 warrants that:

- 11 A. Contractor, through its duly authorized representative, has the full power and
12 authority to enter into and execute this Agreement and, as such, this Agreement
13 is legally binding upon and enforceable against Contractor in accordance with its
14 terms;
15 C. Contractor is not under any obligation to any other party that would be inconsistent
16 with or in conflict with this Agreement or that would prevent, limit or impair in any
17 way its performance of any obligations hereunder;
18 D. Contractor has the requisite expertise, qualifications, staff, materials and
19 equipment in place and available to enable it to fully perform the Services and
20 Contractor, along with its employees, as required, and all sub-contractors, if any
21 and as required, possess all necessary permits, licenses, consents, registrations
22 and/or certifications required under federal, state and/or local law to perform the
23 Services;
24 E. As of the Effective Date of this Agreement, Contractor has no knowledge of any
25 undisclosed fact that could materially adversely affect its condition (financial or
26 otherwise), business operations or its ability to fulfill its obligations under this
27 Agreement;
28 F. Contractor is not in breach of any federal, state or local statute or regulation
29 applicable to Contractor or its operations;
30 G. Contractor's work shall be accurate and free from any material errors.
31 Contractor's duties as set forth in this Agreement shall at no time be in any way

1 diminished by reason of any approval by City nor shall Contractor be released
2 from liability by reason of such approval by City—it being understood that City, at
3 all times, is ultimately relying upon Contractor’s skill and knowledge in
4 performing the Services;

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

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

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

16 **ARTICLE III. COMPENSATION**

17 Section 1. Rate of Compensation. City shall compensate Contractor at the following
18 rate per hour for the performance of the Services.

19 Partners: \$200 per hour

20 Associates: \$180 per hour

21 Paralegals: \$90 per hour.

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

24 Section 2. Truth-In-Negotiation. As of the Effective Date of this Agreement, Contractor
25 represents and warrants that the rates charged City as set forth in this Article III for the
26 performance of the Services are no higher than those charged Contractor’s most
27 favored customer for the same or substantially similar services. In the event
28 Contractor’s “most favored customer” rates are reduced during the term of this Agreement,
29 Contractor shall be obligated to promptly notify City of such reduction in writing, and such
30 reduced rates shall apply to any services provided on or after the date that Contractor first
31 reduced such rates. City shall have the right to enforce this provision for up to one (1)

1 year following the termination of this Agreement.

2 Section 3. Detailed Monthly Invoices. As a prerequisite to payment, Contractor shall
3 submit to City monthly invoices describing in detail, at a minimum, the services
4 performed and time expended in the performance of such services. Billing hours shall
5 be invoiced in increments of not greater than one-tenth of an hour.

6 Section 4. Maximum Compensation; Subject to Appropriation. City's obligation to
7 compensate Contractor hereunder shall not at any time exceed the maximum
8 compensation, in the aggregate, of \$50,000.00. Further, all compensation owed
9 Contractor pursuant to this Agreement is contingent upon the appropriation and
10 allocation of funds by City.

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

19 Section 6. No Payments in Excess of Maximum Compensation. Officers and
20 employees of City are not authorized to offer or promise to Contractor additional funding
21 for the contract in excess of the maximum amount of funding set forth above. Additional
22 funding for services provided under this Agreement, unless this Agreement has been
23 amended in accordance with its terms to authorize such increase and the Department of
24 Finance has certified the availability of such additional funding. Absent the prior duly
25 authorized amendment of this Agreement and the necessary certification of the
26 Department of Finance, City shall not be required to honor—and will not remit to
27 Contractor—any offered or promised additional funding for any of the Services
28 performed pursuant to this Agreement in excess of the maximum amount set forth
29 above.

30 **ARTICLE IV. TERM**

31 Section 1. Initial Term. This Agreement shall commence on the Effective Date and

1 shall continue until December 31, 2014. It is understood and acknowledged by
2 Contractor that the Services described above are expected to be completed within this
3 time period.

4 Section 2. Renewal. At the option of City, this Agreement may be renewed on an
5 annual basis for no longer than five one-year periods, beginning January 1, 2015,
6 provided that (A) additional funding, if required, is allocated by City and incorporated
7 herein by a duly authorized amendment to this Agreement and (B) the renewal of this
8 Agreement will facilitate the continuity of the services described herein.

9
10 **ARTICLE V. NON-DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY**

11 Section 1. Contractor Shall Not Discriminate. In the performance of this Agreement,
12 Contractor agrees not to discriminate on the basis, whether in fact or perception, of a
13 person's race, color, creed, religion, national origin, ancestry, age, sex, sexual
14 orientation, gender identity, domestic partner status, marital status, physical or mental
15 disability or AIDS- or HIV-status against (A) any employee of or any City employee
16 working with Contractor in any of Contractor's operations within Orleans Parish or (B)
17 any person seeking accommodations, advantages, facilities, privileges, services, or
18 membership in all business, social, or other establishments or organizations operated
19 by Contractor. Contractor agrees to comply with and abide by all applicable federal,
20 state and local laws relating to non-discrimination, including, without limitation, Title VI
21 of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973 and the
22 Americans with Disabilities Act of 1990.

23 Section 2. Equal Employment Opportunity.

24 In all hiring or employment made possible by or resulting from this Contract, there (1)
25 will not be any discrimination against any employee or applicant for employment
26 because of race, color, religion, gender, age, physical or mental disability, national
27 origin, sexual orientation, creed, culture or ancestry, and (2) where applicable,
28 affirmative action will be taken to ensure that the Contractor's employees are treated
29 during employment without regard to their race, color, religion, gender, age, physical or
30 mental disability, national origin, sexual orientation, creed, culture or ancestry. This
31 requirement shall apply to, but not be limited to the following: employment, upgrading,

1 demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates
2 of pay or other forms of compensation; and selection for training, including
3 apprenticeship. All solicitations or advertisements for employees shall state that all
4 qualified applicants will receive consideration for employment without regard to race,
5 color, religion, gender, age, physical or mental disability, national origin, sexual
6 orientation, creed, culture or ancestry.

7 Section 3. Subcontracts. Any and all subcontracts by the Contractor relating to work
8 under this contract shall be approved in advance by motion of the Council. The Council
9 may require information on ownership interests in the subcontractor prior to approval of
10 the subcontractor's retention. Contractor shall incorporate by reference in all
11 subcontracts the provisions of this Article and shall require all subcontractors to comply
12 with such provisions. Contractor's failure to comply with the obligations in this
13 subsection shall constitute a material breach of this Agreement.

14 15 **ARTICLE VI. INDEMNIFICATION**

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

25 **ARTICLE VII. INDEPENDENT CONTRACTOR STATUS**

26 Section 1. Acknowledgment Of Exclusion Of Worker's Compensation Coverage: The
27 Contractor herein expressly agrees and acknowledges that it is an independent
28 Contractor as defined in R. S. 23:1021 (6) and as such, it is expressly agreed and
29 understood between the parties hereto, in entering into this professional services
30 contract, that the City of New Orleans shall not be liable to the Contractor for any
31 benefits or coverage as provided by the Worker's Compensation Law of the State of

1 Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by the
2 Contractor shall not be considered an employee of the City for the purpose of Worker's
3 Compensation Coverage.

4 Section 2. Acknowledgment Of Exclusion Of Unemployment Compensation Coverage:

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

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

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

21 Section 3. Waiver Of Sick And Annual Leave Benefits: It is expressly agreed to and
22 understood between the parties entering into this professional services contract that the
23 Contractor, acting as an independent agent, and its agents assigned and employees
24 shall not receive any sick and annual leave benefits from the City of New Orleans.

25
26 **ARTICLE VIII. GOVERNING LAW, JURISDICTION AND VENUE**

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

30 Section 2. Exclusive Jurisdiction and Venue. For all claims arising out of or related to
31 this Agreement, Contractor hereby consents and yields to the exclusive jurisdiction and

1 venue of the Civil District Court for the Parish of Orleans and expressly waives any (A)
2 pleas of jurisdiction based upon Contractor's residence and (B) right of removal to
3 federal court based upon diversity of citizenship.
4

5 **ARTICLE IX. RETENTION, ACCESS AND OWNERSHIP OF RECORDS**

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

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

18 Section 3. Ownership. All data collected and all products of work prepared, created or
19 modified by Contractor in the performance of its obligations under this Agreement,
20 including, without limitation, any and all notes, tables, graphs, reports, files, computer
21 programs, source code, documents, records, disks, original drawings or other such
22 material, regardless of form and whether finished or unfinished, (collectively, "Work
23 Product") shall become the exclusive property of City, and no reproduction of any
24 portions of such Work Product may be made in any form without the express written
25 consent of City. City shall have all right, title and interest in such Work Product,
26 including, without limitation, the right to secure and maintain the copyright, trademark
27 and/or patent of Work Product in the name of City. All such Work Product may be used
28 and distributed for any purpose deemed appropriate by City without the consent of and
29 for no additional consideration owing to Contractor.
30

31 **ARTICLE X. DURATION OF AGREEMENT**

1 Section 1. Termination. The services to be provided under the terms of this Agreement
2 shall begin on March 1, 2014 and shall end no later than December 31, 2014. It is
3 understood and acknowledged by all signatories to this agreement that work described
4 under these terms is to be accomplished during the time period specified herein. The
5 terms, conditions and/or duration of this contract may be modified by an executed,
6 written amendment to this contract. City and Contractor shall each have the right to
7 terminate this Agreement without cause by giving the other party written notice of its
8 intent to terminate at least thirty (30) days prior to the date of termination. In the event
9 City elects to terminate for convenience, City shall be obligated to pay Contractor only
10 for those Services performed up to and through the date of termination.

11 Section 2. Renewal. At the option of the City, this Agreement may be renewed on an
12 annual basis for no longer than five one-year periods, beginning January 1, 2015, provided
13 that (A) additional funding, if required, is allocated by City and incorporated herein by a
14 duly authorized amendment to this Agreement, and (B) the renewal of this Agreement will
15 facilitate the continuity of the services described herein.

16 **ARTICLE XI. INSURANCE**

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

21 **ARTICLE XII. NOTICE**

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

25
26 If to City: Evelyn F. Pugh, Interim City Council Chief of Staff
27 New Orleans City Council, Room 1E06
28 City Hall, 1300 Perdido St.
29 New Orleans, Louisiana 70112

30
31 and Sharonda Williams

1 City Attorney
2 City of New Orleans
3 1300 Perdido St., Room 5E03
4 New Orleans, LA 70112
5

6 If to Contractor: Guy C. Curry
7 Managing Partner
8 Curry & Friend P.L.C.
9 Whitney Bank Building, Suite 1200
10 228 St. Charles Avenue
11 New Orleans, La. 70130
12

13 Section 2. Notices shall be effective when received by each of the above-referenced
14 individuals at the addresses specified above. Each party shall be responsible for
15 notifying the other in 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
17 transmission of routine communications between representatives of City and
18 Contractor.
19

20 **ARTICLE XIII. GENERAL PROVISIONS**

21 Section 1. No Assignment Without Consent. This Agreement is personal to each of the
22 parties hereto, and neither party may assign or delegate any rights or obligations
23 hereunder without first obtaining the written consent of the other party. Subcontractors
24 must be approved by Motion of the City Council. The Council may require information on
25 ownership interests in the subcontractor prior to approval of the subcontractor's retention.
26 Contractor shall incorporate by reference in all subcontracts the provisions of this section
27 and shall require all subcontractors to comply with such provisions. Contractor's failure to
28 comply with the obligations in this subsection shall constitute a material breach of this
29 Agreement.

30 Section 2. Conflict of Interest.

31 **A.** Contractor agrees to decline any offer of work, whether as an independent

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

15 **B.** Determination of a conflict of interest shall be made in accordance with the
16 following process:

- 17 • The Council Chief of Staff shall immediately notify (either electronically or in
18 writing) each Councilmember of any notice received pursuant to this section or in
19 the event knowledge of a potential conflict of interest is acquired independently.
- 20 • If any Councilmember objects to the Contractor's proposed undertaking, he or
21 she must notify the Chief of Staff (either electronically or in writing) within seven
22 working days of the receipt of notice from the Chief of Staff of such objection.
23 The Chief of Staff shall prepare a motion for the Councilmember(s) objecting
24 calling for the approval or disapproval of the proposed undertaking by a majority
25 of all members of the Council at the next regular or special meeting of the
26 Council.

27 Section 3. Office of Inspector General: The Contractor understands and will abide by all
28 provisions of the Code of the City of New Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as
29 adopted by City Ordinance No. 22,888 M.C.S., (relative to the operations and authority
30 of the City Inspector General), incorporated herein by reference.

31 Section 4. Non-waiver. The failure of either party to insist upon strict compliance with

1 any provision of this Agreement to enforce any right or to seek any remedy upon
2 discovery of any default or breach of the other party at such time as the initial discovery
3 of the existence of such noncompliance, right, default or breach shall not affect, nor
4 constitute a waiver of, any party's right to insist upon such compliance, exercise such
5 right or seek such remedy with respect to that default or breach or any prior,
6 contemporaneous or subsequent default or breach.

7 Section 5. Severability. In the event a Court of competent jurisdiction finds any clause
8 or provisions pertaining to the retention of Contractor invalid, unless said Court
9 expressly states otherwise, said findings shall not affect Contractor's right to continue
10 providing legal services to the City with respect to any clause or provision not found to
11 be invalid.

12 For the consideration and under the conditions set forth above, the Contractor has
13 agreed to perform the specified services for the City of New Orleans.

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

- 16
17 Exhibit A Corporate Resolution—Authorization to Sign;
18 Exhibit B IRS Form W-9.

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

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

1 Section 9. No Third-Party Beneficiaries. This Agreement is entered into for the
2 exclusive benefit of the parties, and the parties expressly disclaim any intent to benefit
3 anyone not a party hereto.

4 Section 10. Solicitation: The Contractor has not employed or retained any
5 company or person, other than a bona fide employee working solely for him, to
6 solicit or secure the subject contract. The Contractor has not paid or agreed to
7 pay any person, other than a bona fide employee working from him, any fee,
8 commission, percentage, gift, or any other consideration contingent upon or
9 resulting from the subject contract.

10 Section 11. Convicted Felon: The Contractor swears that it complies with Section 2-8
11 (c) of the Code of the City of New Orleans. No Contractor principal, member, or officer
12 has, within the preceding five years, been convicted of, or pled guilty to, a felony under
13 state or federal statutes for embezzlement, theft of public funds, bribery, or falsification
14 or destruction of public records.

15 Section 12. Expenses: Unless otherwise approved by the Contracting Officer of the City
16 Council, reimbursable expenses shall be limited as follows: postage, overnight delivery
17 or courier services at contractor's actual cost; facsimile transmissions and long distance
18 telephone charges at contractor's actual cost; copies at \$0.10 per page; computerized
19 research at contractor's actual cost.



20 Section 13. Limitations: For the attendance at all meetings of the Council, briefings of
21 Councilmembers, and representation before any court, the Council will only provide
22 labor fee reimbursement for one attorney, unless otherwise specifically approved by the
23 Contracting Officer of the City Council. Contractor further agrees to avoid the
24 unnecessary duplication of personnel and costs in the performance of services under
25 this agreement and accordingly, shall staff all assignments with only qualified and
26 experienced personnel so as to only charge for the minimum number of personnel and
27 incur the least costs reasonably necessary to perform the assignments.

28 Section 14. Non-Exclusive. This Agreement shall be non-exclusive. Accordingly,
29 Contractor shall be free to provide services to other clients, and City shall be free to
30 engage the services of other contractors for the provision of some or all of the Services set
31 forth in this Agreement.

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

10
11 IN WITNESS WHEREOF:

CITY OF NEW ORLEANS

12
13 
14 _____
15 
16 _____

17
18 
19 _____
20 BY: STACY S. HEAD
21 COUNCIL PRESIDENT

22
23 IN WITNESS WHEREOF:

CURRY & FRIEND, PLC

24
25 _____
26

27 
28 _____
29 BY: GUY C. CURRY
30 OWNER AND MANAGING PARTNER

31
32 APPROVED:

33 
34 _____
35 LAW DEPARTMENT