

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

AMENDMENT

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN

THE CITY OF NEW ORLEANS

AND

BRUNO AND TERVALON

THIS AGREEMENT is made and entered into as of the 1st day of January 2009 by and between the Council of the City of New Orleans, represented by Jacquelyn Brechtel Clarkson, President of the Council (hereinafter referred to as "City") and the firm of Bruno and Tervalon (hereinafter referred to as "Contractor").

WITNESSETH

WHEREAS, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected Bruno and Tervalon in accordance with the competitive selection process required by the Home Rule Charter; and

WHEREAS, pursuant to Motions M-04-803 the City Council approved the recommendation of the Council Utilities Committee that the firm of Bruno and Tervalon be retained to provide utility consulting services in the area of the Council's electric and gas regulatory responsibility; and

WHEREAS, the Council desires to authorize a contract amendment and extension with Bruno and Tervalon to assist in meeting the Council's regulatory responsibility to the City and its ratepayers; and

1 **WHEREAS**, by Motion M-08-728 the President of the Council is hereby authorized to
2 sign a contract amendment with Bruno and Tervalon extending the contract through 2009 and
3 increasing the maximum compensation under such contract; now, therefore

4 **WHEREAS**, all parties to the agreements dated January 1, 2005 desire to amend the
5 agreement and have the necessary authority to do so.

6 **THEREFORE, IT IS HEREBY AGREED:**

7 1. To increase the maximum compensable payable under the terms of this
8 agreement by Two Hundred Fifty Thousand Dollars (\$250,000.00) thereby
9 increasing the amount of lines 14 and 18 of page 3 of 10 of the Agreement dated
10 January 1, 2005 for the firm of Bruno and Tervalon. The maximum
11 compensation to be paid to the firm of Bruno and Tervalon shall not exceed One
12 Million Two Hundred Fifty Thousand Dollars (1,250,000.00). If there are any
13 necessary and ordinary expenses attached to the work of the firm of Bruno and
14 Tervalon, these expenses in addition to the fees outlined above, shall be
15 reimbursable by the City but the total amount of such expenses and fees shall not
16 exceed One Million Two Hundred Fifty Thousand Dollars (1,250,000.00)

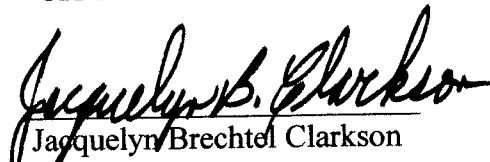
- 1 2. To change the termination date of the agreement by deleting the date, "December
2 31, 2008" on line 23 of page 8 of 10 and inserting in lieu thereof the date
3 "December 31, 2009".
- 4 3. It is further agreed that the agreement is hereby amended to provide as follows:
5 "Pursuant to Chapter 2, Article XVIII of the City Code relative to the Office of
6 Inspector General, the contractor understands and will abide by all provisions of
7 Chapter 2 of the City Code."

8 **IN WITNESS WHEREOF:**

9 ATTEST

CITY COUNCIL


10 _____
11
12


Jacquelyn Brechtel Clarkson
City Council President

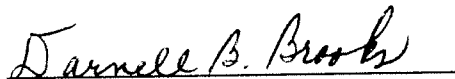
13

Bruno and Tervalon

14 _____
15 *E. A. S. H.*



By: Michael B. Bruno, C.P.A.

16
17
18



Managing Partner
4298 Elysian Fields
New Orleans, LA 70122

19
20

Approved: 
Law Department

72-0877929
Federal ID Number

Substitute this copy for
one previously issued.

MOTION
(AS CORRECTED)
(LYING OVER)
NO. M-08-728

CITY HALL: DECEMBER 18, 2008

**BY: COUNCILMEMBERS MIDURA, CARTER, HEDGE-MORRELL AND
WILLARD-LEWIS**

WHEREAS, pursuant to Section 3-130 of the Home Rule Charter of the City of New Orleans, the New Orleans City Council exercises powers of supervision, regulation, and control over electric and gas utilities providing service in the City; and

WHEREAS, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected consulting firms as advisors, in accordance with the competitive selection process required by the Home Rule Charter and established by Council Rule 45; and

WHEREAS, by Motion M-04-803, after competitive selection, the City Council authorized retention of the Firm of Bruno and Tervalon to continue to provide consulting services to the City Council in electric and gas utility regulatory matters; and

WHEREAS, by Motion M-04-803 and the terms of the Request For Qualifications issued on June 11, 2004, the Council is authorized to renew and extend its existing contract with the Firm of Bruno and Tervalon to provide consulting services to the City Council in electric and gas utility regulatory matters; and

WHEREAS, by Motion M-04-803 the Council further authorized negotiation of contracts with a scope of work consistent with the request for qualifications and the Council's electric and gas Utility regulatory needs with each of the firms to be retained by the Council; and

WHEREAS, during 2008 the Accounting Firm of Bruno and Tervalon directed the advisors efforts in planning and executing the audit of Entergy New Orleans storm restoration costs, which is being used as the required certification for the receipt of CDBG funds for ratepayer mitigation; and

WHEREAS, during 2008 the Accounting Firm of Bruno and Tervalon provided analyses and input regarding the ongoing ENO Rate Case to include: development of data requests and inquiries; assistance in preparation and conduct of depositions for ENO witnesses; and identification of questioned costs relative to ENO's Rate request; and

WHEREAS, during 2008 the Accounting Firm of Bruno and Tervalon reviewed ENO's compliance with Council mandated requirements regarding reporting and auditing affiliate cost transactions; and

WHEREAS, during 2008 the Accounting Firm of Bruno and Tervalon provided accounting policy, technical advice, and audit inquiries on various regulatory matters including:

- a. Tax matters associated with ENO's receipt of CDBG funding and other tax issues affecting ratepayers,
- b. Accounting treatment of ENO's sale of its Market Street Property,
- c. Gas supplier overbillings resulting from metering problems with ENO's City Gate No. 4 gas meter,
- d. Issues regarding the planned withdrawal of Entergy Arkansas and Entergy Mississippi from Entergy's System Agreement and the resultant impacts on ENO ratepayers,
- e. Cost assumptions relative to energy efficiency program recommendations,
- f. ENO and Entergy regulatory financial filings with the SEC and FERC,
- g. Proposed rules regarding incremental storm costs recovery,
- h. ENO's Application to the Council for Approval to refinance \$250 million in aggregate debt.; and

WHEREAS, in 2009 the Accounting Firm of Bruno and Tervalon will continue audit responsibilities regarding ENO's storm costs filings for costs incurred in 2007 and 2008 and associative tax and incremental revenue requirement impacts; and

WHEREAS, in 2009 the Accounting Firm of Bruno and Tervalon will continue analyses and input regarding the ongoing ENO Rate Case to include: development and evaluation of discovery and resultant responses; assistance in preparation and conduct of depositions for ENO witnesses; and the assessment of the reasonableness of costs assigned ratepayers; and.

WHEREAS, in 2009 the Accounting Firm of Bruno and Tervalon will provide accounting policy, technical advice, and audit inquiry regarding: ENO tax filings and issues affecting ENO ratepayers; ENO accounting practices associated with FERC and local regulatory matters; review of costs allocation and expense sharing methodologies employed by ENO, ESI, and other Operating Companies; continued financial analyses regarding SEC and FERC financial reporting; ENO ratepayer impacts associated with Entergy Arkansas and Entergy Mississippi's planned withdrawal from the Entergy System Agreement; the application of incremental costs rules relating to ENO storm costs; and the assessment of cost impacts associated with energy efficiency recommendations; and

WHEREAS, in approving these contract extensions and amendments, the New Orleans City Council is conscious of its responsibility to pursue its regulatory responsibility over gas and electric utilities in a cost-effective manner which nonetheless does not compromise the interests of ratepayers in the high stakes proceedings and others matters which the Council must address on behalf of the City and its ratepayers; and

WHEREAS, prior to the commencement of the 2009 RFQ process the Council fully intends to undertake a thorough analysis of the allocation of its utility regulation resources to ensure that these resources are used in a cost-effective manner that protects the interest of rate payers; and

WHEREAS, the Council will evaluate and incorporate recommendations of such analysis into the 2009 RFQ process, as appropriate; and

WHEREAS, given the continuing needs of this Council relative to its regulatory responsibility the Council desires to authorize an appropriate contract and/or contract amendment(s) with the Firm of Bruno and Tervalon to assist in meeting the Council's regulatory responsibility to the City and its ratepayers; now, therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the President of the Council is hereby requested and authorized to sign a contract amendment with the

Accounting Firm of Bruno and Tervalon extending the contract through 2009 and increasing the maximum compensation under such contract up to \$250,000.00.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the 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 such contract may include provisions allowing the option of direct payment of invoices by utilities regulated by the Council pursuant to Section 3-130 of the Home Rule Charter, provided such payments have been approved by the City, after the City's review and forwarding of such invoices for payment, and further that such invoices, if paid by the City, would be reimbursable by such utility pursuant to Section 3-130 (5) of the Home Rule charter. Such payments shall be recoverable as a regulatory expense by such utility in the same manner as reimbursements to the City for such payments.

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

JANUARY 8, 2009

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

YEAS: Clarkson, Fielkow, Head, Hedge-Morrell, Midura, Willard-Lewis - 6

NAYS: 0

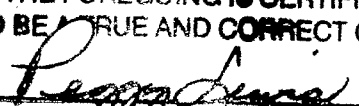
ABSENT: 0

RECUSED: Carter - 1

AND THE MOTION WAS ADOPTED.

G:\DoCS\CECIL\COUNCIL\Motions\2008\M-728.doc

THE FOREGOING IS CERTIFIED
TO BE TRUE AND CORRECT COPY


CLERK OF COUNCIL

**MOTION
(AS CORRECTED)
M-08-453**

Substitute this copy for
one previously issued.

CITY HALL: AUGUST 7, 2008

**BY: COUNCILMEMBERS MIDURA, CARTER, HEDGE-MORRELL AND
WILLARD-LEWIS**

WHEREAS, pursuant to Section 3-130 of the Home Rule Charter of the City of New Orleans, the New Orleans City Council exercises powers of supervision, regulation, and control over electric and gas utilities providing service in the City; and

WHEREAS, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected consulting firms as advisors, in accordance with the competitive selection process required by the Home Rule Charter and established by Council Rule 45; and

WHEREAS, on May 6, 2004, the City Council adopted Motion M-04-301, determining that highly qualified and experienced legal, technical, and engineering professional regulatory advisors are needed by the Council and directing the Council staff to issue a Requests for Qualifications ("RFQ") to begin the competitive selection process established by Council Rule 45; and

WHEREAS, a Request for Qualifications relative to electric and natural gas regulatory services was issued on June 11, 2004; and

WHEREAS, the City Council's Request For Qualifications issued on June 11, 2004 specified that the Council could renew its proposed contracts for additional periods of up to five years, assuming continuing need for the services and mutual satisfaction ;and

WHEREAS, by Motion M-04-803, after competitive selection, the Council authorized the firms of Sullivan J. Worcester, LLP; Bruno & Tervalon; and Paillet, Meunier and LeBlanc, LLP be retained to provide electric and/or natural gas regulatory services for a period of up to five years; and

WHEREAS, by Motion M-08-170 the City Council ratified and approved the assignment of its contract with the firm of Sullivan and Worcester, LLP to the firm of Sonnenschein, Nath and Rosenthal, LLP effective March 27, 2 008; and

WHEREAS, the initial contracts for each of the firms named in the preceding two paragraphs inadvertently suggested that the Council could extend those contracts for a period of less than the total of five years specifically authorized by the Request for Qualifications and the City Council's Motion authorizing retention of those firms; and

WHEREAS, the City Council desires to clarify any ambiguity relative to the period for which the contracts with those firms may be extended by authorizing specific contract amendments to conform with its original Request for Qualifications and Motion M-04-803; and

WHEREAS, as a result of the important work related to establishing a new forward-looking energy policy in New Orleans including the development of a framework for the Energy Smart Program, Sonnenschein, Nath and Rosenthal, LLP will incur additional costs, unanticipated at the beginning of this year; and

WHEREAS, the Council wishes to provide additional funds for the contract of Sonnenschein, Nath and Rosenthal, LLP and has the required budgeted funds to provide for the required increase; now, therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS That the President of the Council is hereby requested and authorized to sign a contract amendment with each of the firms Sonnenschein, Nath & Rosenthal, LLP; Bruno & Tervalon; and Paillet, Meunier & LeBlanc, LLP amending Section XIII of each of those agreements, originally effective January 1, 2005, to provide specifically that each such contract may be extended annually for a period of up to five years from the original date of each contract.

BE IT FURTHER MOVED that the President of the Council is hereby requested and authorizes to sign a contract amendment with the firm of Sonnenschein, Nath and Rosenthal, LLP increasing the maximum compensation of that firm's contract, assigned from Sullivan and Worcester, LLP, by \$130,000.00.

BE IT FURTHER MOVED that the contract amendments authorized herein shall be circulated in accordance with normal process and City Council Rules

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

YEAS: Carter, Clarkson, Fielkow, Midura, Willard-Lewis - 5

NAYS: 0

ABSENT: Head, Hedge-Morrell - 2

AND THE MOTION WAS ADOPTED.

THE COUNCIL OF THE CITY OF NEW ORLEANS
ROSEMARY M. WILSON, Mayor
Deborah A. DeCade, Council President
2005