

K08-287

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

THE CITY OF NEW ORLEANS

AND

LUTHER C. SPEIGHT & COMPANY

THIS AGREEMENT made and entered into as of the 1st day of March, 2008, by and between the City of New Orleans, herein represented by Arnie Fielkow, President of the Council (hereinafter referred to as "City"), and the Public Accounting Firm of Luther C. Speight & Company (hereinafter sometimes referred to as "Contractor").

WITNESSETH

WHEREAS, the Council of the City of New Orleans has, in accordance with Section 6-107 of the Charter of the City of New Orleans, authorized its President, Arnie Fielkow, to enter into a contract for the purpose of performing an audit of the Municipal Employees Pension & Retirement System (MEPRS), (hereinafter referred to as "Fund"), as of and for the year ending December 31, 2007; and

WHEREAS, the Public Accounting Firm of Luther Speight & Company is recognized as being fully competent in public accounting and auditing;

THE CITY OF NEW ORLEANS and the Firm Luther Speight & Company, for consideration and under the conditions set forth do agree as follows:

I. THE CONTRACTOR AGREES:

A. To audit the financial statements of the Fund as of and for the year ending

December 31, 2007, as described in the Letter of Engagement dated January 4, 2008, attached hereto and made a part hereof as "Attachment A".

- B. That their audit of the Fund's financial statements will be made in accordance with U.S. generally accepted auditing standards adopted by the American Institute of Certified Public Accountants, Government Auditing Standards issued by the Comptroller General of the United States.

II. REPORTS TO BE ISSUED:

Upon completion of the audits referred to in Section I, and subject to their findings, Contractor will submit to the Council and others the reports detailed in the Engagement Letter of January 4, 2008, including the following:

1. An opinion as to whether the financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles.
2. A report on the fairness of the additional supplemental information when considered in relation to the financial statements taken as a whole.
3. A report on internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements.

Each of the foregoing reports will be signed only by, and will be the sole responsibility of the Contractor.

All of the above reports are to be distributed as follows: fifteen (15) copies to the Council and its staff; six (6) copies to the Department of Finance, 1 pdf file to the Legislative Auditor, and ten (10) copies to the Board of Liquidation, City Debt. In addition, ten (10) manually signed copies of the report described in Item 1 above are to be furnished to the Board of

Liquidation, City Debt.

III. COMPENSATION:

It is mutually agreed upon and understood that the total cost of the above-described audit and other assessments and reports to the City of New Orleans shall not exceed the sum of \$28,750 which includes out-of-pocket expenses for travel etc. It is further mutually agreed by the parties to this agreement that the fee assumes that (1) the Fund's general ledger and bank accounts have been reconciled as of year-end and reconciling items, if any, have been properly resolved, and (2) no audit adjusting entries are required to reflect the Fund's general purpose financial statements in accordance with generally accepted accounting principles.

IV. EQUAL EMPLOYMENT OPPORTUNITY:

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

without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

V. ASSIGNABILITY:

The Contractor shall not assign any interest in this contract without prior written consent of the City of New Orleans.

VI. CONFLICT OF INTEREST:

In the interest of ensuring that efforts of the Contractor do not conflict with the interest of the City, and in recognition of the Contractor's professional responsibility to the City, the Contractor agrees to adhere to AICPA and Louisiana State Board of Certified Public Accountants professional standards regarding independence and conflicts of interest. The initial determination of these matters rests with the Contractor. It is incumbent upon the Contractor to notify the City and provide full disclosure of the possible effects of these matters on the Contractor's independent professional work on behalf of the City. Final decision on any such matters shall rest with the City.

VII. INDEMNIFICATION:

The Contractor shall be solely responsible to indemnify and save harmless the City of New Orleans against any and all claims, demands, suits, judgements of sums of money to any party accruing against the City for loss of life or bodily injury or damage of real or tangible personal property to the extent directly and proximately caused by any act of negligence or willful misconduct of such Contractor, his agents, servants, or employees while engaged in or about or in connection with the discharge or

performance of the services to be done or performed by such Contractor hereunder, and shall also hold the City harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of his obligation under this Agreement. In no event shall the Contractor be responsible for indemnifying the City for the acts, errors or omissions of another Contractor.

VIII. ACKNOWLEDGEMENT OF EXCLUSION OF WORKER'S COMPENSATION

COVERAGE:

Contractor herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the parties hereto, in entering into this professional services contract, that the City of New Orleans shall not be liable to the Contractor for any benefits or coverages as provided by the Worker's Compensation Law of the State of Louisiana and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.

IX. ACKNOWLEDGEMENT OF EXCLUSION OF UNEMPLOYMENT

COMPENSATION COVERAGE:

Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this contract of hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this professional services

contract, or contract for hire, and in connection with unemployment compensation coverage only, that:

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

X. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:

It is expressly agreed and understood between the parties entering into this professional services contract that the Contractor, acting as an independent contractor, shall not receive any sick and annual leave benefits from the City of New Orleans.

XI. CONTRACT STATEMENT:

The firm responsible for performing the professional services hereunder has employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject contract. The firm has not paid or agreed to pay any person, other than a bona fide employee working for the firm, any fee, commission, percentage, gift or any other consideration contingent upon or

securing a professional services contract. Any behavior to the contrary shall be considered bribery and subject the applicant to criminal penalties in addition to suspension from participation in city government contracting for not less than three years.

XII. JURISDICTION:

In connection with the confirmation of an arbitration award pursuant to the Engagement Letter attached hereto as "Attachment A", the Contractor consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waive any pleas of jurisdiction based on a Contractor's residence elsewhere.

XIII. DURATION OF AGREEMENT:

This contract shall be effective for the period March 1, 2008 through February 28, 2009. Neither of the parties to this contract may terminate the contract during the term of the contract except that (1) the City may terminate the Contractor if such Contractor should fail to cure a material breach of its obligations under this contract within 30 days after receipt of written notice of such breach, and (2) the Contractor may resign as the City's auditor and terminate this contract at any time in accordance with the laws, regulations and professional standards applicable to such Contractor=s services hereunder. Written notice of intent to terminate shall be given thirty (30) days before the intended termination date. Work shall commence as soon as practicable after execution of this agreement, and Contractor shall use reasonable efforts, subject to laws, regulations and professional standards applicable to

Contractor=s services hereunder, to complete and present the final audit report no later than June 30, 2008. For considerations and under the conditions set forth above, Luther Speight & Company has agreed to perform the specified services for the City of New Orleans.

XIV. FORCE MAJEURE:

Notwithstanding any other provision in this contract, Contractor shall not be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, acts or omissions or the failure to cooperate pursuant to this contract by the City (including, without limitation, entities or individuals under its control, or any of their respective officers, directors, employees or other personnel or agents), acts or omissions of third parties not within Contractor's reasonable control, or any law, order or requirement of any governmental agency or authority.

XV. CITY COOPERATION:

The City understands that the proper and timely completion of Contractor's services hereunder requires the reasonable cooperation of the City and entities under its control, and their respective officials, employees, and other personnel and agents. The City agrees to provide all such reasonable cooperation to Contractor.

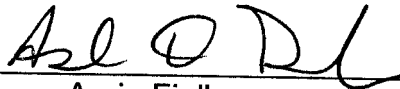
XVI. INDEPENDENT CONTRACTORS:

Luther Speight & Company shall act as independent contractors in the performance of this contract and nothing herein shall be deemed or construed to create a joint venture, partnership, agency prime contractor/subcontractor or employer/employee relationship between such parties. The Contractor shall be responsible for compensating its own personnel and for their performance under this contract.

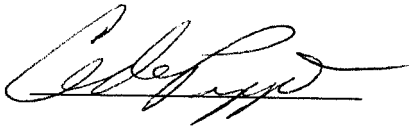
IN WITNESS THEREOF:

ATTEST

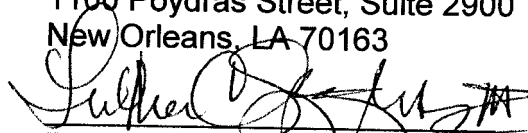
CITY OF NEW ORLEANS



Arnie Fielkow,
President-City Council

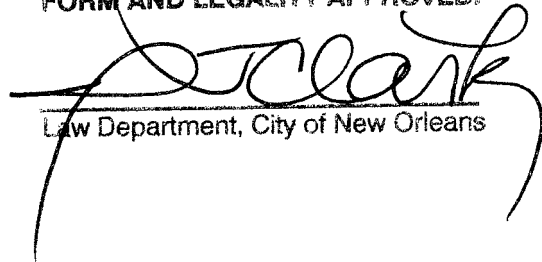


Luther Speight & Company, LLC
1100 Poydras Street, Suite 2900
New Orleans, LA 70163



By: Luther C. Speight
Federal ID Number: 30-0156143

FORM AND LEGALITY APPROVED:


Law Department, City of New Orleans



LUTHER SPEIGHT & COMPANY, LLC

Certified Public Accountants and Consultants

January 4, 2008

Honorable Arnie Fielkow
City Council President for the
Parish of Orleans
1300 Perdido Street
New Orleans, LA 70112

Dear Mr. Fielkow:

As certified public accountants licensed to perform audits in Louisiana, we are proud that you have engaged our firm to audit the financial statements of the Municipal Employees Pension & Retirement System (MEPRS) as of December 31, 2007, and for the year then ended. This letter will confirm our understanding of the arrangements regarding the financial audit we are to make of the MEPRS as of and for the year ended December 31, 2007.

The document we submit to you will include the following supplementary information required by generally accepted accounting principles that will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Pension Plan Funding and Supplemental Information

Audit Objectives

The objective of our audit is the expression of an opinion as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the financial statements taken as a whole. Our audit will be conducted in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, and will include tests of the accounting records of MEPRS and other procedures we consider necessary to enable us to express such an opinion. If our opinion on the financial statements is other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements as required by Government Auditing Standards. This report will include a statement that the report is intended solely for the information and use of the audit committee, management, and the Legislative Auditor of Louisiana and other regulatory bodies and is not intended to be and should not be used by anyone other than these specified.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal control and for compliance with laws, regulations, contracts, and agreements. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the controls. The objectives of internal control are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorizations and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles.

Management is responsible for making all financial records and related information available to us. We understand that you will provide us with such information required for our audit and that you are responsible for the accuracy and completeness of that information. We will advise you about appropriate accounting principles and their application and will advise you in the preparation of your financial statements, but the responsibility for the financial statements remains with you. As part of our engagement, we may propose standard, adjusting, or correcting journal entries to your financial statements. You are responsible for reviewing the entries and understanding the nature of any proposed entries and the impact they have on the financial statements. That responsibility includes the establishment and maintenance of adequate records and effective internal control over financial reporting, the selection and application of accounting principles, and the safeguarding of assets. Management is responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud, or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. You are also responsible for informing us of your knowledge of any allegations of fraud or suspected fraud, or illegal acts affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations and for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report.

As part of the audit, we will prepare a draft of your financial statements and related notes. In accordance with Government Auditing Standards, you will be required to review and approve those financial statements prior to their issuance and have a responsibility to be in a position in fact and appearance to make an informed judgment on those financial statements. Further, you are required to designate a qualified management-level individual to be responsible and accountable for overseeing our services.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse. Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors that come to our attention, and we will inform you of any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors are limited to the period covered by our audit and does not extend to matters that might arise during any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Identifying and ensuring that MEPRS complies with laws, regulations, contracts, and agreements is the responsibility of management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of MEPRS's compliance with applicable laws and regulations and the provisions of contracts and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Audit Procedures—Internal Controls

In planning and performing our audit, we will consider the internal controls sufficient to plan the audit in order to determine the nature, timing, and extent of our auditing procedures for the purpose of expressing our opinion on MEPRS's financial statements. We will obtain an understanding of the design of the relevant controls and whether they have been placed in operation, and we will assess control risk. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Tests of controls are required only if control risk is assessed below the maximum level. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Government Auditing Standards.

An audit is not designed to provide assurance on internal control or to identify reportable conditions. However, we will inform the governing body or audit committee of any matters involving internal control and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. We will also inform you of any nonreportable conditions or other matters involving internal control, if any, as required by Government Auditing Standards.

Audit Administration, Fees, and Other

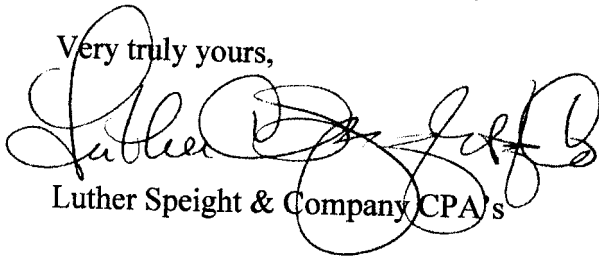
We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing. The audit documentation for this engagement is the property of Luther Speight & Company and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to the Legislative Auditor of Louisiana or its designee, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of our firm's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

We expect to begin our audit immediately upon presentation of client prepared financial statements or approximately March 1, 2008 and to issue our reports no later than May 31, 2008. Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$ 28,750. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2007 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the City Council of New Orleans and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,



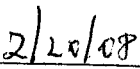
Luther Speight & Company CPAs

RESPONSE:

This letter correctly sets forth the understanding of the City Council of New Orleans

By: 


Title: _____


Date: _____

MOTION

M-01-731

CITY HALL: November 1, 2001

BY: COUNCILMEMBERS SHEA, GUSMAN AND THOMAS

WHEREAS, the Council has conducted a Request For Proposals process, in accordance with Council Rule 45, to receive proposals from CPA firms which wish to conduct the audit of the Municipal Employees Retirement System; and

WHEREAS, the Staff Evaluation Committee has reviewed the proposals, and the Audit Committee has considered their report; and

WHEREAS, the Audit Committee has recommended that the Council retain Luther C. Speight & Co. to perform the audit of the Municipal Employees Retirement System for the fiscal year 2001 and for the four succeeding years, assuming mutual satisfaction; now therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the Council authorizes and requests that the Council President execute contracts with a consortium of auditors which includes Luther C. Speight & Co. as the firm which will conduct the Municipal Employees Retirement System Audits of fiscal years 2001 through 2005.

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

YEAS: Carter, Gusman, Sapir, Shea, Thomas, Willard-Lewis - 6

NAYS: 0

ABSENT: Singleton (Temporarily Out of Chamber) - 1

AND THE MOTION WAS ADOPTED.

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THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

Emma J. Williams

CLERK OF COUNCIL