

**PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**THE CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION**  
**AND**  
**JAY GINSBERG**

**THIS PROFESSIONAL SERVICES AGREEMENT** (the “**Agreement**”) is entered into by and between the City of New Orleans Civil Service Commission (“**Commission**”), represented by Brittney Richardson, Chairperson, and Jay Ginsberg, represented by (the “**Contractor**”). The Commission and the Contractor may sometimes be collectively referred to as the “**Parties**.” The Agreement is effective as of the date of execution by the Chairperson of the Commission (the “**Effective Date**”).

**RECITALS**

**WHEREAS**, the Commission is a local political subdivision of the State of Louisiana, created by La. Const., art. X, § 4;

**WHEREAS**, the Commission seeks to hire a law firm or individual attorney to provide legal services to the Commission and/or the Department of City Civil Service (the “**Department**”);

**WHEREAS**, the Department consists of a Director of Personnel, and the employees subordinate to the Director; and

**WHEREAS**, the Contractor has the requisite expertise, qualifications, and license in place, and is available for the performance of those professional services.

**NOW THEREFORE**, the Commission and the Contractor agree as follows:

**ARTICLE I - THE CONTRACTOR’S OBLIGATIONS**

**A. Services**. The Contractor will:

1. Provide legal services to the Commission and/or the Department, as set forth in Exhibit A.

2. Submit complete and accurate invoices, maintain legal malpractice insurance, and perform all other obligations of the Contractor as set forth in this Agreement;

3. Perform all requirements set forth in La. R.S. 38:2192, concerning amendments with increases in contract amounts, including without limitation the payment of any associated costs, and submit a copy of any recorded documents to the Commission within 30 days after the approval of the associated plan change or amendment; and

**B. Standards**. Notwithstanding any term of this contract to the contrary, the Contractor will perform all work under this Agreement in accordance with the Louisiana Rules of Professional Conduct.

**C. Compliance with Laws.** The Contractor will comply with all applicable federal, state, and local laws and ordinances. The Contractor will notify the Commission within 30 calendar days if a government agency or a court of competent jurisdiction determines the Contractor is in violation of law.

**D. Invoices.**

1. The Contractor must submit invoices monthly to the Commission electronically, via the City of New Orleans supplier portal, for services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice.

**E. Cooperation with Office of Inspector General.**

1. The Contractor will abide by all provisions of City Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested subject to attorney-client privilege. Failure to comply with such requests shall constitute a material breach of the contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

**F. Insurance.**

1. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement:

- a. Legal Malpractice Insurance with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.

2. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Commission requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Commission:

**ARTICLE II - REPRESENTATIONS AND WARRANTIES**

**A.** The Contractor represents and warrants to the Commission that:

1. The Contractor is not in breach of any federal, state, or local statute or regulation applicable to the Contractor or its operations;

2. The Contractor has read and fully understands this Agreement and is executing this Agreement willingly and voluntarily; and

3. All of the representations and warranties in this Article and elsewhere in this Agreement are true and correct as of the date of this Agreement by the Contractor and the execution of this Agreement by the Contractor's representative constitutes a sworn statement, under penalty of perjury, by the Contractor as to the truth of the foregoing representations and warranties.

**B. Convicted Felon Statement.** The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

**C. Non-Solicitation Statement.** The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

**D. Conflict Of Interest.** The Contractor expressly acknowledges that this Agreement is for the performance of professional legal services to the Commission and/or Department under Louisiana Constitution, article X, section 12, or, alternatively, in accordance with Section 4-403(1) of the Home Rule Charter of the City of New Orleans. Contractor further acknowledges that it is bound by the Louisiana Rules of Professional Conduct. The Contractor does not have an attorney-client relationship with the City. The City's ministerial act of payment of invoices through the supplier portal from funds appropriated to the Commission and/or Department by the City Council shall not create an attorney-client relationship and shall not constitute payment by a third party. In the alternative, payment of invoices through the City's supplier portal shall not result in an interference with Contractor's independence or professional judgment or with the attorney-client relationship between Contractor and the Commission/Department under Louisiana Rule of Professional Conduct 1.8(f). Contractor represents that it has performed a conflicts check and affirms that no actual, perceived or potential conflicts exist under Louisiana Rules of Professional Conduct 1.7-1.11. Contractor acknowledges that it has an ongoing obligation to identify potential conflicts and to decline representation which presents a conflict. Any request for a conflict waiver must be presented to the Executive Counsel for the Commission and to the Department in writing in accordance with the Louisiana Rules of Professional Conduct.

**E. Employee Verification.** The Contractor swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; and (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the Contractor being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the Commission occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The Contractor will provide to the Commission a sworn affidavit attesting to the above provisions if requested by the Commission. The Commission may terminate this Agreement for cause if the Contractor fails to provide such the requested affidavit or violates any provision of this paragraph.

### **ARTICLE III - THE COMMISSION'S OBLIGATIONS**

**A. Administration.** The Commission will:

1. Administer this Agreement through the Department and the Commission.
2. Provide the Contractor with all transcripts, exhibits, and documents deemed necessary for the Contractor's performance of any work required under this Agreement; and
3. Provide access to Department personnel to discuss the required services during normal working hours, as requested by the Contractor.

B. **Payment.** Unless otherwise agreed to by the Commission, the payment terms are NET 30 days upon the Contractor's delivery and the Commission's acceptance of the services contemplated in this Agreement and/or upon the Commission's receipt of the properly submitted, complete, and accurate invoice via the City's supplier portal.

#### **ARTICLE IV – COMPENSATION**

A. **Rate of Compensation.**

1. The Commission will pay the Contractor in accordance with the following rate:

\$155/hour for conducting hearings

\$155/hour for all other legal services set forth in Attachment A.

2. This Agreement does not guarantee any amount of work or compensation except as specifically authorized by the Commission in accordance with the terms and conditions of this Agreement.

3. The stated compensation is inclusive, and includes no additional amounts for the Contractor's costs, including without limitation all expenses relating to overhead, administration, subcontractors, employees, bid preparation, bonds, scheduling, invoicing, insurance, record retention, reporting, inspections, audits, the correction of errors and omissions, or minor changes within the scope of this Agreement. The Commission will not consider or be obligated to pay or reimburse the Contractor any other charges or fees, and the Contractor will not be entitled to any additional compensation or reimbursement, including computerized legal research charges, copy charges, postage charges, travel expenses, or outside courier charges, except otherwise specifically provided in the Agreement.

B. **Maximum Amount.** The maximum aggregate amount payable by the Commission under this Agreement is \$ 30,000.

#### **ARTICLE V - DURATION AND TERMINATION**

A. **Term.** The term of this agreement shall be for 1 year, beginning the Effective Date, provided there is an encumbrance of funds by the Department of Civil Service and/or Commission made from the funds appropriated by the City Council. This Agreement shall automatically terminate with respect to any period of time for which funds are not so encumbered.

B. **Termination for Convenience.** The Commission may terminate this Agreement at any time during the term of the Agreement by giving the Contractor written notice of the termination at least 30 calendar days before the intended date of termination.

C. **Termination for Non-Appropriation.** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice, and the Commission will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

D. **Termination for Cause.** The Commission may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to

comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

#### **ARTICLE VI - PERFORMANCE MEASURES**

A. **Factors.** The Commission will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement, including the quality and timeliness of hearing officer reports and effectiveness at presiding over employee disciplinary hearings.

#### **ARTICLE VII - NON-DISCRIMINATION**

A. **Equal Employment Opportunity.** In all hiring or employment made possible by, or resulting from this Agreement, the **Contractor** (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, 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, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

B. **Non-Discrimination.** In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VII of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. The Commission may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

#### **ARTICLE VIII - INDEPENDENT CONTRACTOR**

A. **Independent Contractor Status.** The Contractor is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the Commission, Department, or the City of New Orleans, and will not hold itself or any of its employees or agents to be an employee, partner, or agent of the Commission, Department, or the City.

B. **Exclusion of Worker's Compensation Coverage.** Neither the Commission,

Department, nor the City of New Orleans will be liable to the Contractor, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the Contractor will not be considered an employee of the Commission, Department, or City of New Orleans for the purpose of Worker's Compensation coverage.

**C. Exclusion of Unemployment Compensation Coverage.** The Contractor, as an independent contractor, is being hired by the Commission under this Agreement for hire and defined in La. R.S. 23:1472(E) and neither the Contractor nor anyone employed by it will be considered an employee of the Commission, Department, or the City of New Orleans for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the Contractor has been and will be free from any control or direction by the Commission over the performance of the services covered by this contract; (b) the services to be performed by the Contractor are outside the normal course and scope of the Commission's usual business; and (c) the Contractor has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

**D. Waiver of Benefits.** The Contractor, as an independent contractor, will not receive from the Commission, Department, or the City of New Orleans any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered under this Agreement.

#### **ARTICLE IX - NOTICE**

**A. In General.** Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

**1. To the Commission:**

Christina Carroll  
Executive Counsel  
City of New Orleans Civil Service Commission  
1340 Poydras Street, Suite 900  
New Orleans, LA 70112

**2. To the Contractor:**

Jay Ginsberg

**B. Effectiveness.** Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

**C. Notification of Change.** Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

## **ARTICLE X - ADDITIONAL PROVISIONS**

A. **Amendment.** No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

B. **Assignment.** This Agreement and any part of the Contractor's interest in it are not assignable or transferable without the Commission's prior written consent.

C. **Choice of Law.** This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

D. **Compliance with the City of New Orleans's Hiring Requirements.** (i) The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d), 2-13(a)-(f), and 70-512. Prior to executing this Agreement, Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary. (ii) Failure to maintain compliance with the City's hiring requirements throughout the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City, Commission, or Department will provide the Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City, Commission, or Department may move to suspend payments to Contractor, void the Agreement, or take any such legal action permitted by law or this Agreement. (iii) This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and the remaining provisions of the Agreement will remain in full force and effect. (iv) The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

E. **Entire Agreement.** This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

F. **Exhibits.** The following exhibits will be and are incorporated into this Agreement: Exhibit A.

G. **Jurisdiction.** The Contractor consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any exception of jurisdiction on account of the residence of the Contractor.

H. **Limitations of the Commission's Obligations.** The Commission has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

I. **No Third-Party Beneficiaries.** This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

**J. Non-Exclusivity.** This Agreement is non-exclusive and the Contractor may provide services to other clients, subject to the Commission's approval of any potential conflicts with the performance of this Agreement. The Commission may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

**K. Non-Waiver.** The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

**L. Order of Documents.** In the event of any conflict between the provisions of this Agreement any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; Exhibit A.

**M. Prohibition of Financial Interest in Agreement.** No elected official or employee of the City of New Orleans shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City of New Orleans shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of Contractor, shall render this Agreement voidable by the Commission and shall entitle the Commission to recover, in addition to any other rights and remedies available to the Commission, all monies paid by the City of New Orleans to Contractor pursuant to this Agreement without regard to Contractor's otherwise satisfactory performance of the Agreement.

**N. Prohibition on Political Activity.** None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

**O. Remedies Cumulative.** No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

**P. Severability.** Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

**Q. Survival of Certain Provisions.** All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

**R. Terms Binding.** The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.



## **ARTICLE XI - ELECTRONIC SIGNATURE AND DELIVERY**

The Parties agree that an electronically signed copy of this Agreement and any other document(s) attached to this Agreement executed in the manner provided in Civil Service Rule II, § 4.22 shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**[The remainder of this page is intentionally left blank]**

**[SIGNATURES CONTAINED ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the Commission and the Contractor, through their duly authorized representatives, execute this Agreement.

**CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION  
BY: BRITTNEY RICHARDSON, CHAIRPERSON**



Brittney Richardson (Jul 29, 2024 16:30 CDT)

**JAY GINSBERG**



Jay Ginsberg (Jul 29, 2024 16:01 CDT)

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**FEDERAL TAX I.D.**

**APPROVED BY:**

**CITY OF NEW ORLEANS CITY COUNCIL  
BY: HELENA MORENO, PRESIDENT**



Helena Moreno (Aug 7, 2024 13:24 CDT)

**[EXHIBIT A ATTACHED SEPARATELY]**

**EXHIBIT A**  
**PROFESSIONAL SERVICES AGREEMENT BETWEEN**  
**CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION**  
**AND**  
**JAY GINSBERG**

Jay Ginsberg shall be compensated at a non-negotiable, fixed rate of \$155 per hour, per attorney, for items 1, 2, 3, and 4 as listed below, inclusive of all costs, fees, expenses, and overhead and \$155 per hour, per attorney for services performed under items 5, 6,7 and 8 as listed below, inclusive of all costs, fees, expenses and overhead.

Jay Ginsberg will be responsible for, but not limited to the following:

1. Conduct hearings for Civil Service employee appeals and Public Integrity Bureau 60 day extension requests;
2. Conduct hearings on complex legal issues involving investigations of Civil Service rule violations and other legal issues;
3. Work may include examining or cross examining witnesses (including unrepresented parties) as necessary to fully develop the facts; knowledge of the Louisiana Code of Civil Procedure and related statutes and decisions related to admissibility of evidence and other procedural matters; administering the oaths to witnesses and maintaining decorum;
4. Develop an accurate record of the proceedings by ensuring that the proceedings are recorded or a court reporter is present: that the exhibits offered, proffered or introduced into evidence are adequately marked for identification and are physically placed in the record; and decide whether good cause is shown to grant or deny requests for continuances;
5. Prepare a formal written hearing examiner report for the consideration of the panel of Commissioners assigned to the matter within 15 days of the receipt of the transcript or the receipt of all post-hearing briefs, whichever is later. May also prepare a proposed decision for the panel of Commissioners on occasion.
6. May also, on occasion, represent the Commission and Civil Service Department (“Department”) in any litigation, including drafting pleadings to be filed on behalf of or in defense of the Commission, Director, or Department;
7. May also provide legal advice and counsel to the Civil Service Commission and/or Department on occasion as requested; and
8. All such related matters as may be assigned by the Department’s Personnel Director and/or Civil Service Commission.