

1 may submitted those invoices either to the City's Department of Finance for payment by the City, or,
2 alternatively, to a regulated utility company when such invoices would be reimbursable by a utility
3 because it is subject to regulation under Section 3-130 of the Home Rule Charter and reimbursable
4 pursuant to Section 3-130 (5) of the Home Rule Charter.

5 C. Payment by Regulated Utility Company. In the event that a regulated utility company
6 pays an invoice submitted in accordance with this Agreement:

7 1. The regulated utility company will send the payment to the Council Utilities Regulatory
8 Office which shall immediately forward it to the Contractor;

9 2. Said payment shall fully discharge the City's obligation for such payment under this
10 Agreement and be included in and applied to the maximum compensation limits of this Agreement; and

11 3. Pursuant to Section 3-130 (5) of the Home Rule Charter, said payment shall be
12 recoverable as regulatory expense by such utility in the same manner as reimbursements to the City for
13 such payments.

14 **ARTICLE IV - DURATION AND TERMINATION**

15 A. Initial Term. The term of this agreement shall be for 11 months, beginning the Effective
16 Date and terminating on December 31, 2018. This Agreement shall automatically terminate with respect
17 to any period of time for which funds are not so encumbered. It is understood and acknowledged by the
18 Contractor that the obligations described under these terms is to be accomplished during the time period
19 specified herein.

20 B. Extension. This Agreement may be extended at the sole option of the City, provided that
21 funds are allocated by the City Council and the extension of the Agreement facilitates the continuity of
22 services provided herein.

23 C. Termination for Convenience. The City may terminate this Agreement at any time
24 during the term of the Agreement by giving the Contractor written notice of the termination at least 30
25 calendar days before the intended date of termination.

1 Code (“Living Wage”). If the Contractor fails to comply with the requirements of the Living Wage
2 during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit
3 of other remedies by the City.

4 **ARTICLE VII - NON-DISCRIMINATION**

5 **A. Equal Employment Opportunity.** In all hiring or employment made possible by, or
6 resulting from this Agreement, the Contractor (1) will not discriminate against any employee or applicant
7 for employment because of race, color, religion, gender, age, physical or mental disability, national
8 origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative
9 action to ensure that the Contractors’ employees are treated during employment without regard to their
10 race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed,
11 culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment,
12 upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay
13 or other forms of compensation, and selection for training, including apprenticeship. All solicitations or
14 advertisements for employees shall state that all qualified applicants will receive consideration for
15 employment without regard to race, color, religion, gender, age, physical or mental disability, national
16 origin, sexual orientation, creed, culture, or ancestry.

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

1 of 1973, and the Americans with Disabilities Act of 1990.

2 C. Incorporation into Subcontracts. The Contractor will incorporate the terms and
3 conditions of this Article into all subcontracts, by reference or otherwise, and will require all
4 subcontractors to comply with those provisions.

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

7 **ARTICLE VIII - INDEPENDENT CONTRACTOR**

8 A. Independent Contractor Status. The Contractor is an independent contractor and shall not be
9 deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of
10 its employees, subcontractors or agents to be an employee, partner, or agent of the City.

11 B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Contractor,
12 as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided
13 by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S.
14 23:1034, any person employed by the Contractor will not be considered an employee of the City for the
15 purpose of Worker's Compensation coverage.

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

25 D. Waiver of Benefits. The Contractor, as independent contractor, will not receive from the City

1 any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick
2 leave, pension, or Social Security for any services rendered to the City under this Agreement.

3 **ARTICLE IX - NOTICE**

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

7 1. To the City:

8 The Council Utility Regulatory Office
9 1300 Perdido Street, Room 6E07
10 New Orleans, LA 70112

11 12 2. To the Contractor:

13 Philip Mosenthal, President
14 Optimal Energy, Inc.
15 10600 Route 116, Suite 3
16 Hinesburg, VT 05461

17 18 B. **Effectiveness.** Notices are effective when received, except any notice that is not received
19 due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the
20 first attempted delivery.

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

23 **ARTICLE X - ADDITIONAL PROVISIONS**

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

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

28 C. **Audit and Oversight.** The Contractor will abide by all provisions of City Code § 2-1120,
29 including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office

1 of Inspector General with documents and information as requested subject to attorney-client privilege.
2 Failure to comply with such requests shall constitute a material breach of the contract. The Contractor
3 agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of
4 challenging a subpoena.

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

7 **E. Conflicting Employment.** To ensure that the Contractor's efforts do not conflict with the
8 City's interests, and in recognition of the Contractor's obligations to the City, the Contractor will decline
9 any offer of other employment if its performance of this Agreement is likely to be adversely affected by
10 the acceptance of the other employment. The Contractor will promptly notify the City in writing of its
11 intention to accept the other employment and will disclose all possible effects of the other employment on
12 the Contractor's performance of this Agreement. The City will make the final determination whether the
13 Contractor may accept the other employment.

14 **F. Conflict Of Interest.** The Contractor expressly acknowledges that this Agreement is for
15 the performance of professional legal services on behalf of the Client, the City. Therefore, the Contractor
16 further acknowledges that it is bound by the Louisiana Rules of Professional Conduct. The Contractor
17 represents that it has performed a conflicts check and affirms that no actual, perceived or potential
18 conflicts exist. The Contractor acknowledges that it has an ongoing obligation to identify potential
19 conflicts and to decline representation which presents a conflict. Any request for a conflict waiver must
20 be presented to the City in writing in accordance with the Louisiana Rules of Professional Conduct.
21 Nevertheless, the City is under no obligation to approve conflict waiver requests.

22 **G. Construction of Agreement.** Neither party will be deemed to have drafted this
23 Agreement. This Agreement has been reviewed by the Parties and shall be construed and interpreted
24 according to the ordinary meaning of the words used so as to fairly accomplish the purposes and
25 intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against

1 the City or the Contractors on the basis of which party drafted the uncertain or ambiguous language. The
2 headings and captions of this Agreement are provided for convenience only and are not intended to have
3 effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the
4 plural and neutral words and words of any gender shall include the neutral and other gender.

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

9 **I. Employee Verification.** The Contractor swears that (i) it is registered and participates in
10 a status verification system to verify that all employees in the State of Louisiana are legal citizens of the
11 United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status
12 verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it
13 shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with
14 items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to
15 termination, and may further result in the Contractor being ineligible for any public contract for a period
16 of 3 years from the date the violation is discovered. The Contractor further acknowledges and agrees that
17 it shall be liable for any additional costs incurred by the City occasioned by the termination of this
18 Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a
19 violation of this provision. The Contractor will provide to the City a sworn affidavit attesting to the above
20 provisions if requested by the City. The City may terminate this Agreement for cause if the Contractor
21 fails to provide such the requested affidavit or violates any provision of this paragraph.

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

1 **K. Exhibits.** The following exhibits will be and are incorporated into this Agreement:

- 2 • Exhibit A – Proposed Scope of Work and Project Schedule for NOLA Potential Study
3 dated January 22, 2018, and
4 • Exhibit B – Billing Guidelines.

5 **L. Jurisdiction.** The Contractor consent and yield to the jurisdiction of the State Civil
6 Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of
7 the residence of the Contractor.

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

10 **N. No Third Party Beneficiaries.** This Agreement is entered into for the exclusive benefit
11 of the Parties and the Parties expressly disclaim any intent to benefit anyone not a party to this
12 Agreement, except for the benefit received by Contractor's subcontractors when Contractor pays them.

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

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

22 **Q. Non-Waiver.** The failure of either party to insist upon strict compliance with any
23 provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or
24 breach of the other party at such time as the initial discovery of the existence of such noncompliance,
25 right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such

1 compliance, exercise such right or seek such remedy with respect to that default or breach or any prior
2 contemporaneous or subsequent default or breach.

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

11 **S. Ownership of Records.** Except as noted at the end of this paragraph, upon final payment,
12 all data collected and all products of work prepared, created or modified by the Contractor in the
13 performance of this Agreement, including without limitation any and all notes, tables, graphs, reports,
14 files, computer programs, source code, documents, records, disks, original drawings or other such
15 material, regardless of form and whether finished or unfinished, but excluding the Contractor’s personnel
16 and administrative records and any tools, systems, and information used by the Contractors to perform the
17 services under this Agreement, including computer software (object code and source code), know-how,
18 methodologies, equipment, and processes and any related intellectual property (collectively, “**Work**
19 **Product**”) will be the exclusive property of City and the City will have all right, title and interest in any
20 Work Product, including without limitation the right to secure and maintain any copyright, trademark, or
21 patent of Work Product in the City’s name. No Work Product may be reproduced in any form without the
22 City’s express written consent. The City may use and distribute any Work Product for any purpose the
23 City deems appropriate without the Contractors’ consent and for no additional consideration to the
24 Contractor. The sole exception to the City’s rights to all work described in this paragraph is ACEEE’s
25 royalty-free, nonexclusive license to use public, non-confidential works it produces under the Agreement,

1 including for the creation of derivative works, for ACEEE's nonprofit purpose of advancing energy
2 efficiency. This license is granted by Contractor and acknowledged by the City.

3 **T. Prohibition of Financial Interest in Agreement.** No elected official or employee of the
4 City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a
5 financial interest held by the spouse, child, or parent of any elected official or employee of the City shall
6 be deemed to be a financial interest of such elected official or employee of the City. Any willful violation
7 of this provision, with the expressed or implied knowledge of the Contractor, shall render this Agreement
8 voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies
9 available to the City, all monies paid by the City to the Contractor pursuant to this Agreement without
10 regard to Contractors' otherwise satisfactory performance of the Agreement.

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

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

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

25 **X. Subcontractor Reporting.** The Contractor will provide a list of all natural or artificial

1 persons who are retained by the Contractor at the time of the Agreement's execution and who are
2 expected to perform work as subcontractors in connection with the Contractor's work for the City. For
3 any subcontractor proposed to be retained by the Contractor to perform work on the Agreement with the
4 City, the Contractor must provide notice to the City within 30 days of retaining that subcontractor. If the
5 Contractor fails to submit the required lists and notices, the City may, after thirty 30 days' written notice
6 to the Contractor, take any action it deems necessary, including, without limitation, causing the
7 suspension of any payments, until the required lists and notices are submitted.

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

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

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

15 The Parties agree that a manually signed copy of this Agreement and any other document(s)
16 attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of
17 an original signed copy of this Agreement. No legally binding obligation shall be created with respect to
18 a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

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

20 **[SIGNATURES CONTAINED ON NEXT PAGES]**

1 IN WITNESS WHEREOF, the City and the Contractor, through their duly authorized
2 representatives, execute this Agreement.

3 CITY OF NEW ORLEANS

4 BY: _____

5 Jason R. Williams, Council President

6 Executed on this 4 of April, 2018.

7
8 APPROVED:

9 Law Department

10 By: _____

11 Printed Name: Ashley Beanel

12
13 OPTIMAL ENERGY, INC.

14 BY: _____

15 Eric Belliveau, Vice-President, Optimal Energy, Inc.

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

17 [EXHIBITS A AND B CONTAINED ON NEXT PAGES]

1 EXHIBIT A TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN

2 THE CITY OF NEW ORLEANS

3 AND

4 OPTIMAL ENERGY, INC.

5 PROPOSED SCOPE OF WORK AND PROJECT SCHEDULE FOR

6 NOLA POTENTIAL STUDY

7 DATED JANUARY 22, 2018

8 **TASK 1: STAKEHOLDER ENGAGEMENT**

9 **Task 1a: Update Meetings**

10 The Optimal Team will conduct three public stakeholder meetings – the first to present the
11 measure list, planned methodology and major data sources and assumptions, the second to
12 present the full draft results and collect any feedback, and the third to present the final results.
13 The Optimal Team, with input from the City Council, will oversee the selection and invitation of
14 stakeholders. Each meeting will be scheduled for two hours and take the form of a presentation,
15 both in-person in New Orleans and available via webinar. We assume the City Council can
16 provide an appropriate space for the in-person meetings. Time will be allotted for Q&A and
17 comments. Optimal will also solicit written comments, due within a week from the presentation
18 date. For the first two meetings, Optimal will review the comments over the week following the
19 receipt date. We will incorporate any suggested changes if and only if the Team deems them
20 appropriate, accurate, and relevant to New Orleans. It is possible that some of the suggestions
21 may improve the study, but also increase the time and budget requirements. In these cases, we
22 will discuss with the City Council whether there is interest in adding these, where feasible within
23 the schedule constraints.

24 This work plan does not include significant ongoing engagement with various stakeholders or
25 supplemental one-on-one calls, but detailed workpapers will be provided upon request.

26 *Deliverables*

- 27 ◦ Draft and final presentations for each meeting to be delivered to the City
28 Council only.
29 ◦ Summary of stakeholder comments for the meetings, and brief notes stating
30 one of the following: 1) we agree and will incorporate into the study, 2) we do
31 not agree and our explanation as to why, or 3) we agree that incorporating the

1 comment may add value but would also add non-negligible time and cost to
2 the study

3 *Other Outputs*

- 4 • None
- 5

6 **Task 1b: Delphi Panel**

7 The Optimal Team will assemble two Delphi Panels. Each panel will consist of 8 to 12
8 people that will work to arrive at consensus estimates for penetration curves for 5 key measures
9 or measure types. One of the panels will look at residential measures, and the other will look at
10 commercial measures, for a total of 10 key measure types. We will select the measures and
11 measure types to maximize coverage of the full measure list, with particular emphasis on those
12 types of measures expected to contribute the largest share of savings. The Optimal Team, with
13 input from the City Council, will select and recruit experts to volunteer for the panel; no
14 compensation will be provided. The output of each panel will be a set of baseline (i.e., assuming
15 no efficiency program activity) and “with program” penetration curves for each measure, over
16 the time horizon of the study or relevant expected program lifetime. The “with program” curves
17 will be based on the program providing an incentive to cover 100% of the incremental cost of the
18 measures, representing a “maximum achievable” scenario (see below for further details). In
19 addition, for each of the 10 measure types, we will also ask the panels to estimate the share of the
20 maximum penetration rate that would be achieved if incentives only covered 50% of the
21 incremental costs. This will provide key information to enable us to efficiently model an
22 additional “program achievable potential” scenario that may better reflect ultimate programs to
23 be considered in New Orleans.

24 *Deliverables*

- 25 • No formal deliverable. Results will be directly incorporated into the model of
26 potential, and a discussion of the process will be provided in the final report.

27 *Other Outputs*

- 28 • Baseline adoption curves for 10 key measure types
- 29 • Measure adoption curves for 10 key measure types for maximum achievable
30 scenario
- 31 • Share of the maximum achievable measure adoption curves appropriate to a
32 50% program incentive level for 10 key measure types.

33 **TASK 2: DATA COLLECTION**

34 To populate the potential study model and associated analyses, we will first rely on all
35 available primary data that reflects New Orleans specifically. We understand that the City

1 Council and its consultant will gather many of the key inputs from Entergy, such as a load
2 forecast, customer data, avoided costs, line losses, etc. Other data, particularly related to the
3 demand response potential estimate and the value of avoided capacity, may be sourced from
4 MISO. When primary data are unavailable, we will then consider the best Entergy, State or
5 regional data available, before resorting to national or outside-of-region databases such as the
6 EIA's Commercial Buildings Energy Consumption (CBECS) or the California DEER database.
7 No new primary data collection will be conducted.

9 *Deliverables*

- 10 • No formal deliverable. Data sources for all major inputs will be described in
11 the final report.

12 *Other Outputs*

- 13 • All data needed to estimate baseline forecast and populate the global
14 assumptions of the model.

15 **TASK 3: DEVELOP MEASURE LIST**

16 We will develop a list of efficiency measures, including emerging technologies, for
17 consideration. For this list, we will draw upon our extensive database of common EE
18 measures, supplemented by emerging technologies that are currently market ready or are likely
19 to be market ready during the 20 year study period (2018-2037). Since this is an electric only
20 study, we will not include fuel switching measures. We will perform a qualitative screening to
21 identify any measures that should be ruled out, to avoid wasting resources on characterizing and
22 screening measures that are clearly not cost-effective, do not make sense for New Orleans, or
23 that would otherwise have negligible impact on the total available potential. However, we would
24 expect that the vast majority of the draft list of measures considered in this phase would pass the
25 qualitative screen. We will share this draft measure list with the City Council, its advisors, and
26 the other stakeholders for review and approval prior to finalizing the list of measures.

27 *Deliverables*

- 28 • Draft and final measure lists.

29 *Other Outputs*

- 30 • None.

31 **TASK 4: DEVELOP BASELINE FORECAST**

32 We will use Entergy's forecast by customer segment as a starting point for the baseline sales
33 forecast needed for the model. This forecast will be "disaggregated" (i.e., divided into various
34 "buckets" of consumption) based on customer segment (i.e., residential or commercial), new

1 construction or existing load, building type (e.g., office, grocery, multifamily, etc.) and electric
2 energy end use (e.g., lighting, cooling, compressed air, etc). We will base this disaggregation on
3 state or local data where available. If not available, we will use regional data for the US
4 Southeast. We will also work with Entergy to understand the components of the baseline forecast
5 and what, if any, adjustments need to be made to account for future baseline levels of DSM
6 activity.

7 *Deliverables*

- 8 ◦ No formal deliverable. Outputs will be directly incorporated into the model of
9 potential, and the results of the process will be provided in the final report.

10 *Other Outputs*

- 11 ◦ Fully disaggregated forecast of electric energy use and peak demand over the
12 study time frame.

13

14 **TASK 5: CHARACTERIZE MEASURES**

15 For this phase, we will define the important characteristics of each measure. Each measure
16 needs various data points, as described below. For these data, we rely first on existing
17 characterization for New Orleans as defined by the New Orleans TRM. If the measure is not
18 included in the TRM, we will draw from our in-house database of measures, adjusting for New
19 Orleans' weather for data points that are weather-dependent. We will also adapt savings
20 estimates to New Orleans building code, where necessary, and consider any likely significant
21 changes over time to costs or performance.

- 22 ◦ **Measure Costs** are the estimated costs of EE measures compared to the base
23 case alternative. For retrofit measures, the base case is no action, so the cost
24 reflects the total labor and equipment costs. For all other markets where there
25 is already a planned investment, costs are the incremental labor and equipment
26 costs of the efficient product over and above the base case product.
- 27 ◦ **Savings Factor** represents the percent savings (as compared to either existing
28 stock or new baseline equipment) of the high efficiency technology. Savings
29 factors are calculated based on individual measure data and assumptions about
30 existing stock efficiency, standard practice for new purchases, and high
31 efficiency options. For early-retirement retrofit measures, a baseline
32 adjustment factor is applied to adjust the saving factor downward in future
33 years to account for the fact that newer, standard equipment efficiencies (that
34 would naturally be installed at some point in the future even without program
35 intervention) are higher than older, existing stock efficiencies.
- 36 ◦ **Load Shapes** capture when savings occur over the course of a year. For cost-
37 effectiveness screening purposes, load shapes will be simplified into four to

1 six relevant periods, depending on the structure of Entergy's avoided costs.
2 For example, these periods may coincide with the system peak and off-peak
3 periods by season such that the proper avoided energy costs may be applied to
4 them to produce a monetized estimate of measure savings. For reporting
5 purpose, the savings will be disaggregated using either "8,760" or "24 hour"
6 loadshapes, as further described under Task 9. We anticipate that Entergy can
7 provide load shape data by customer sector and end use. Alternatively, we
8 would draw on publicly available EPRI loadshapes for the Southeast region.

- 9 • **Effective Useful Lifetime** is the length of time that a given measure is
10 expected to generate energy savings. This includes the effect of measure
11 persistence, which accounts for measures being taken out of service prior to
12 failure.

14 *Deliverables*

- 15 • No formal deliverable. Outputs will be directly incorporated into the model of
16 potential, and a discussion of the process will be provided in the final report.

17 *Other Outputs*

- 18 • Full characterizations for every measure on the measure list

20 **TASK 6: BUILD THE MODEL**

21 For this step, we will build the model and develop all the input assumptions that will allow us
22 to calculate efficiency potential and associated cost-effectiveness. In order to most accurately
23 estimate these values, our analysis methodology calls for the following data points for each
24 measure. Where specific New Orleans studies exist, we will use these values. Otherwise we will
25 draw from our existing database of measures and associated factors.

- 26 • **Applicability** is the fraction of the end-use level sales that is attributable to
27 equipment that could be replaced by the high efficiency measure. For
28 example, for packaged air conditioners it is the portion of total cooling
29 electrical load consumed by packaged systems, for each building type.
- 30 • **Feasibility** is the fraction of the applicable end-use sales for which it is
31 technically feasible to install the high efficiency technology. Numbers less
32 than 100% reflect engineering or other technical barriers that would preclude
33 adoption of the measure. Feasibility is not reduced for economic or behavioral
34 barriers that would reduce penetration estimates. Rather, it reflects technical
35 or physical constraints that would make measure adoption impossible or ill
36 advised.

- 1 • **Turnover** is the percentage of existing equipment that will be naturally
2 replaced each year due to failure, remodeling, or renovation. This only applies
3 to the replacement/purchase market. In general, a measure’s turnover factor is
4 assumed to be 1 divided by the measure life.
 - 5 • **Not Complete** is the percentage of existing equipment that already represents
6 the high-efficiency option. This only applies to retrofit markets.
 - 7 • **Savings Factor** represents the percent savings (as compared to either existing
8 stock or new baseline equipment for retrofit and non-retrofit markets,
9 respectively) of the high efficiency technology.
 - 10 • **Annual Net Penetrations** are the difference between the Base Case measure
11 penetration and the measure penetrations that could be achieved with
12 sustained efficiency initiatives. For economic potential, it is assumed that
13 100% penetration is captured for all markets. For achievable, these are
14 expressed as percentages of the total economic (i.e., cost-effective) potential
15 savings achieved for each measure for each year. These penetrations will be
16 developed as part of Task 8.
- 17 Technical potential, then, will be determined for each measure by applying the following
18 formula.

$$\begin{array}{|c|} \hline \text{Measure} \\ \hline \text{Savings} \\ \hline \end{array} = \begin{array}{|c|} \hline \text{kWh} \\ \hline \text{Sales} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Applicability} \\ \hline \text{Factor} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Feasibility} \\ \hline \text{Factor} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Turnover} \\ \hline \text{Factor} \\ \hline \text{(Replacement} \\ \hline \text{only)} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Not} \\ \hline \text{Complete} \\ \hline \text{Factor} \\ \hline \text{(Retrofit} \\ \hline \text{only)} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Savings} \\ \hline \text{Factor} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Net} \\ \hline \text{Penetration} \\ \hline \text{Rate} \\ \hline \end{array}$$

- 19
- 20 *Deliverables*
- 21 • No formal deliverable. Outputs will be directly incorporated into the model of
22 potential, and a discussion of the process will be provided in the final report.
- 23 *Other Outputs*
- 24 • A fully populated portfolio screening tool, including all global and measure
25 level assumptions.

26 **TASK 7: ECONOMIC POTENTIAL**

27 Once the model is constructed, we will determine the total economic efficiency potential in
28 New Orleans. The economic potential is composed of the savings from all measures that are

1 cost-effective, without consideration of market, behavioral, or participant financial barriers. The
 2 economic potential, as well as the the other scenarios defined below, will use a modified Total
 3 Resource Cost (TRC) Test, applied consistently with the guidance of the Resource Value
 4 Framework as published in the National Standards Practice Manual.¹ This test will include non-
 5 energy benefits to the extent they can be justifiably estimated. Further, though a value for carbon
 6 will be selected in consultation with the Council and used for the purposes of determining which
 7 measures are cost-effective, our reporting will include benefits for a range of different carbon
 8 values. The results of the utility cost test (UCT) will also be reported, which includes only the
 9 total costs incurred by the utility (i.e., incentives or other payments to customers, plus program
 10 implementation and administration costs) rather than all costs incurred by both the utility and
 11 participants. UCT benefits are limited to those that accrue to only the electric system (avoided
 12 electric energy and capacity costs).

13 The modified TRC will include non-energy benefits (NEBS) to the extent they can be
 14 justifiably estimated and derived from well-documented and existing appropriate industry
 15 research. We expect to include NEBS in the form of adders customized for specific customer or
 16 program segments: one for low income programs, one for non-low income residential whole
 17 house retrofits (e.g., “Home Performance” programs), and one for all other programs. If
 18 included, we will use the latest EIA estimate of the avoided cost of carbon. The table below
 19 summarizes all the standard energy efficiency tests.
 20

Components of the Energy Efficiency Cost-Effectiveness Tests

	Participant Test	RIM Test	PAC Test	TRC Test	Societal Cost Test
Energy Efficiency Program Benefits					
Customer Bill Savings	X	—	—	—	—
Avoided Energy Costs	—	X	X	X	X
Avoided Capacity Costs	—	X	X	X	X
Avoided Transmission and Distribution Costs	—	X	X	X	X
Wholesale Market Price Suppression Effects	—	X	X	X	—
Avoided Cost of Environmental Compliance	—	X	X	X	X
Other Program Impacts (Utility Perspective)	—	—	X	X	X
Other Program Impacts (Participant Perspective)	X	—	—	X	X
Other Program Impacts (Societal Perspective)	—	—	—	—	X
Energy Efficiency Program Costs					
Program Administrator Costs	—	X	X	X	X
EE Measure Cost: Program Financial Incentive	—	X	X	X	X
EE Measure Cost: Participant Contribution	X	—	—	X	X
Non-Energy Costs	X	—	X	X	X
Lost Revenues to the Utility	—	X	—	—	—

21

¹ National Standard Practice Manual for Assessing Cost-Effectiveness of Energy Efficiency Resources. Edition 1, Prepared by the National Efficiency Screening Project. May 18, 2017.

1 Because the focus is on electric measures only, and the study will be used primarily as an
2 input to an electric IRP and to support Entergy electric-only efficiency programs, we will not
3 quantify any ancillary fossil fuel impacts and benefits. We expect that gas and oil benefits would
4 be limited given the New Orleans climate and apply only to building shell measures. As a result,
5 we propose to relax the cost-effectiveness screening criteria for shell measures, such as a benefit-
6 cost ratio of 0.8. We will propose the appropriate level based on a simple analysis of the typical
7 contribution of gas benefits to shell measures implemented for cooling, and in consultation with
8 the City Council.

9 While we will calculate and report the results of both the TRC and UCT, we will rely solely
10 on the TRC as the single criterion to determine cost-effectiveness at the measure level for
11 purposes of the economic and achievable potential scenarios. Measures with a benefit-cost ratio
12 of less than one will be removed from the estimate of potential as not cost-effective. There may
13 be marginal cases, such as where:

- 14 • The measure passes the criterion in some building types, but not all.
- 15 • The measure passes in some years but not others.
- 16 • The measure does not initially pass, but is an emerging technology with
17 declining costs, and therefore passes in later years.

18 In the first two cases, we will generally include the measure only if it passes in the majority
19 of years or building types if it is likely to be promoted as a prescriptive measure. More custom
20 measures that are likely to be promoted on a site-specific basis will still be included for all
21 applications where they are cost-effective. We handle the third case by delaying the introduction
22 of the measure until such time as it is cost-effective. We will use a discount rate appropriate for
23 an analysis of public purpose programs with low risk, typically between 2.5 and 5 percent.
24 However, for the economic potential we will also include a sensitivity analysis looking at a
25 higher discount rate of the weighted average cost of capital (WACC) for the utility. This will
26 determine how sensitive the estimate is to the magnitude of the discount rate, and will show how
27 using the WACC impacts the economic potential.

28 *Deliverables*

- 29 • No formal deliverable. Outputs will be directly incorporated into the model of
30 potential, and a discussion of the process will be provided in the final report.
31 We will convey initial economic results to the City Council via teleconference
32 or email if they so desire.

33 *Other Outputs*

- 34 • Measure level cost-effectiveness results
- 35 • Total savings from all cost-effective measures
- 36 • Total costs and benefits from all cost-effective measures

1 **TASK 8: DEVELOP MEASURE ADOPTION RATES**

2 This section describes our methodology for setting measure penetrations for the achievable
3 potential scenario discussed below. A set of penetration factors over time is often referred to as a
4 penetration curve. Typically, two sets of measure penetrations are developed:

- 5 • the “no program” case which would occur without any efficiency program
6 intervention, also called “natural DSM” or “business as usual” – this level of
7 efficiency is assumed to be included in the baseline sales forecast
- 8 • The maximum achievable potential, representing the highest level of
9 efficiency reachable through the implementation of “best practice” strategies
10 and complete funding of incremental measure costs.

11 Where possible, we will define the penetration curves using available New Orleans specific
12 data. We will draw from existing New Orleans baseline studies, as well as the results of the
13 Delphi Process, as defined in Task 1. As discussed in Task 1, we apply the adoption curves
14 identified in the Delphi process as broadly as possible, but will also likely draw from adoption
15 rates achieved in leading programs in other jurisdictions, and projections of how markets are
16 likely to advance in the absence of program intervention. In contrast to many potential studies
17 where the advancement of baselines are not matched by future technology advancement, we will
18 assume that technology performance advancement keeps pace with increasing baselines and
19 building codes, consistent with the historical evidence. For any known standards that will go into
20 effect in the future, we will explicitly adjust future baselines as appropriate.

21 *Deliverables*

- 22 • No formal deliverable.

23 *Other Outputs*

- 24 • Formal measure adoption curves for every measure for a maximum achievable
25 scenario.

26 **TASK 9: ACHIEVABLE POTENTIAL**

27 Using all of the data and results develop to this point, we will develop a “maximum
28 achievable” potential scenario that assumes 100% of measure costs are covered by a program
29 incentive. This represents an estimate of the maximum EE savings that a portfolio of
30 comprehensive programs addressing all cost-effective markets could be expected to achieve. At
31 this stage, we will apply the measure adoption curves developed in Task 8 and informed by the
32 Delphi panels to determine the maximum penetration possible using assumptions about
33 consumer behavior and market barriers. We will place significant emphasis on this scenario,
34 because it estimates the entire achievable potential that should be a primary input to Entergy’s
35 IRP.

1 While the maximum achievable potential is the most appropriate for quantifying the cost-
2 effective efficiency resource that could potentially defer or eliminate new supply-side investment
3 or facilitate plant retirements, we also recognize that Entergy has not traditionally pursued
4 programs nearly as aggressive as the maximum achievable, and that there may be significant
5 resistance to adopting the levels of rate impacts that could result from this. We will therefore also
6 model a program constrained achievable potential scenario. We will model this based on
7 assuming programs only cover approximate 50% of measure costs. We will draw on the Delphi
8 panel estimates of how much lower penetrations are likely to be under that scenario, as well as
9 our own expert judgment and knowledge of leading program outcomes.

10 In conducting the achievable analyses, we will group measures into high level “programs”
11 based on market sector (residential or commercial) and segment (retrofit, market driven, or new
12 construction), but we will not design specific program strategies meant to overcome barriers for
13 specific measures. Instead, we will make the general assumption that the programs are well-
14 designed to best overcome market barriers and gain maximum penetration based on the adoption
15 curves developed in Task 8. We will estimate administrative costs based on Entergy’s current
16 experience in New Orleans and the experience of program administrators in other jurisdictions,
17 implemented as a percentage of incentive spending for each program.

18 Potential savings will be reported in kWh and coincident peak kW in each year, aggregated
19 by building type, customer segment, and end use; we will also identify the top saving measures.
20 Although the total potential will be screened using loadshapes aggregated into 4-6 avoided cost
21 periods, we will also provide worksheets that allocate annual savings for each program modeled
22 to either all 8,760 hours in the year or for typical 24-hour daily loadshapes, depending on
23 Entergy’s IRP needs and the preferences of the Council and its advisors. These “8760” savings
24 estimates will be developed using savings loadshapes from either Entergy or another online
25 source for each customer segment and end use. For example, if the analysis finds 1,000 MWh of
26 savings for Commercial HVAC measures, and the loadshape for that end-use indicates that 0.1%
27 of energy use occurs on January 10 from 10pm-11pm, then our output will show 1 MWh saved
28 in that hour from that end-use.

29 *Deliverables*

- 30 ◦ 8760 or typical 24-hour daily results for the maximum achievable and
31 program-constrained achievable scenarios, by program.

32 *Other Outputs*

- 33 ◦ Total potential electric and demand savings in a maximum achievable and
34 program-constrained achievable scenarios.
- 35 ◦ Total electric and non-energy benefits for the maximum achievable and
36 program-constrained achievable scenarios.
- 37 ◦ Cost-effectiveness as measured by the TRC and UCT

1 **TASK 10: RATE DESIGN**

2 Applying our in-house experience with relevant evidence and recent studies, the Optimal
3 Team will develop rate design approaches for the New Orleans potential study to maximize
4 energy and demand savings. The developed approaches to rate design will not only reduce peak
5 demand and conserve energy, they will facilitate other customer investments in energy
6 efficiency. While a rate case proceeding beginning this year is distinct from the need to assess
7 efficiency potential for the IRP process, it is important to consider all opportunities to align rate
8 design assumptions and potential for energy efficiency and demand reductions.

9 For this task, we will first review existing rate design structures for residential and business
10 customers in the Entergy New Orleans (ENO) service area. Next, based on our own past research
11 and other literature reviews we will develop a set of potential rate design options for ENO
12 customers that would be most aligned with energy efficiency outcomes. For example, these may
13 include time of use (TOU) pricing and critical peak pricing (CPP). We will describe these
14 options, and we will also include a discussion on the implications and considerations for low-
15 income customers. Finally, we will analyze the potential electricity and peak demand impacts
16 and likely costs for a few of these options.

17 *Deliverables*

- 18
 - No formal deliverable

19 *Other Outputs*

- 20
 - Total costs and savings for various rate design strategies
 - Discussion of qualitative considerations for rate design strategies

22 **TASK 11: DEMAND RESPONSE**

23 ACEEE will lead the analysis of the potential for demand response savings. Demand
24 response refers to changes in electric load by end-use customers from their normal consumption
25 patterns in response to specific market signals or system conditions. Traditional demand
26 response programs help shed load during times of peak electric grid load events (e.g., hot
27 summer afternoons), such as the use of load control switches for air conditioners and water
28 heaters. Newer demand response approaches help to change load shapes more broadly and
29 include thermostat-control and behavioral programs, partnerships with commercial and
30 institutional customers to leverage building control systems, and time-varying rates (although
31 impacts from rates will be examined separately under the rate design task). With the expected
32 rollout of Advanced Metering Infrastructure (AMI) in New Orleans, we will explore how this
33 investment can be most effectively used to reduce peak load. These options will all be examined
34 for the potential study. We will also explore the potential interactive effects of EE and DR.

1 For this task, ACEEE will first compile data on demand response programs based on existing
2 literature. We will rely on data from utilities in the same region, e.g. Entergy Arkansas, for
3 information on energy and cost performance of demand response programs. The outcome will be
4 a range of potential demand response programs based on historical results. We will estimate peak
5 demand impacts, participation, and costs. Next ACEEE will review other possible options, based
6 on newer technologies and other changes in demand response programs nationally.

7 *Deliverables*

- 8 • No formal deliverable

9 *Other Outputs*

- 10 • Total costs and peak demand savings for various rate demand response
11 strategies

12 **TASK 12: REPORTING**

13 We will produce a report that describes the context, methodology and results for the potential
14 study. The report will specifically and separately examine the results of the economic, maximum
15 achievable, and program-constrained achievable scenarios; the results of the EE, DR, and Rate
16 Design analyses will also be reported separately. As appropriate, the reporting will include:

- 17 • The baseline forecast as compared to the three potential scenarios
- 18 • Incremental annual savings by sector, market and year for each scenario
- 19 • Cumulative savings by scenario, and % of baseline forecast
- 20 • Assumed breakout of energy use by sector and building type
- 21 • TRC and UCT results for each scenario and sector, including the total costs
22 and benefits
- 23 • Energy and demand potential by sector, market, building type and end use
- 24 • Residential and commercial sector top energy savings measures

25
26 We will also conduct a meta-analysis of other potential studies performed in New Orleans,
27 Louisiana, and in other nearby jurisdictions. We will include a table comparing the results of our
28 study with these studies, and provide a brief discussion on the similarities and differences. This
29 discussion will be based on the information provided in the body of the report – we will not
30 attempt to drill down into the specific models or detailed assumptions used. We will prioritize
31 studies looking at Louisiana and other southeastern jurisdictions, potentially including:

- 32 • ICF Louisiana 2014
- 33 • ACEEE Louisiana 2013
- 34 • ACEEE Arkansas 2011
- 35 • Navigant Arkansas 2015
- 36 • Cadmus Georgia 2015

- 1 ◦ Cadmus Oklahoma 2015
- 2 ◦ TVA/EnerNoc Tennessee 2012
- 3 ◦ Austin Energy Texas 2012

4

5 Finally, we will provide quantitative results of the RIM test and estimated rate and bill impacts
6 and will include a qualitative discussion on the estimated cost impact to ratepayers due to the
7 efficiency programs. This will examine the increase of rates due to the utility needing to spread
8 the same fixed costs over less energy, as well as the decrease in bills due to lower energy
9 payments, and the recovery of program costs. We will also discuss possible but harder to
10 quantify impacts such as demand reduction induced price effects (DRIPE).

11 *Deliverables*

- 12 ◦ Draft and final report describing the context, methodology, and results of the
13 potential study
- 14 ◦ Set of appendices showing measure level assumptions

15 *Other Outputs*

- 16 ◦ None

17

18

Deliverable	4-Apr	11-Apr	18-Apr	25-Apr	2-May	9-May
Kick-off meeting	x					
Draft Study Workplan		x				
Final Study Workplan			x			
Draft Measure List				x		
Final Measure List					x	
Characterize Measures					x	x
Build Model						x

Deliverable	16-May	23-May	30-May	6-Jun	13-Jun	20-Jun	27-Jun
Characterize Measures	x	x	x	x	x		
Build Model	x	x	x	x	x	x	x
Economic Potential				x	x	x	x
Achievable Potential					x	x	x
Draft Report						x	x

1.

Deliverable	4-Jul	11-Jul	18-Jul	25-Jul	1-Aug	15-Aug	29-Aug
Build Model	x						
Economic Potential	x						
Achievable Potential	x	x					
Draft Report	x	x	x				
Stakeholder meeting on draft-report				x	x		
Final Report and IRP inputs							x

2

1

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3 [EXHIBIT B CONTAINED ON NEXT PAGES]

4

1 **EXHIBIT B TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN**

2 **THE CITY OF NEW ORLEANS**

3 **AND**

4 **OPTIMAL ENERGY, INC.**

5 **City Council Utility Regulatory Office (CURO) Work and Billing Practices Policy for Utility,**
6 **Cable, Telecommunications and Technology Committee (UCTTC) Advisors**

7 **May 4, 2016**

8 Note: The following applies to a UCTTC Advisor, or multiple Advisors, or Advisor firms, hereafter
9 referred to as "Advisor" or "Advisors." In this policy, the terms "Invoice" and "Bill" or "Billing" are used
10 interchangeably. "CURO" refers to the CURO Chief and the Deputy Chief/Director, or if one is
11 unavailable then the other, together with any person serving in an interim role in one of those positions.

12 **Purpose:**

- 13 1) To ensure that services are reasonably billed and are in accordance with
14 contractual terms.
- 15 2) To facilitate efficient administration of the contracts and prompt review and
16 payment of invoices.
- 17 3) To facilitate analysis of contractual service costs for planning and budgeting
18 purposes.
- 19 4) To prevent inadvertent disclosure of privileged information and/or strategies.

20 **Permitted Work:**

21 All professional services are subject to the provisions of the Advisor contracts. The
22 Council views every bill from an Advisor as a certification by the Advisor and his or her
23 firm that the services and disbursements reflected on the bill are reasonable for the matter
24 involved and necessary for the proper provision of professional services to the Council.
25 Staffing shall be efficient. Time and disbursements that are not necessary for the cost-
26 effective handling of a matter should not be billed. Compliance with this procedure will
27 avoid delays in processing invoices.

28 Subject to additional direction given by the Council, the UCTTC, or its Chair, with a
29 copy to CURO, the following work may be performed, provided it is in compliance with
30 the remaining Work and Billing Practices hereafter:

- 31 1) Reasonable monitoring and information gathering with respect to issues that are
32 of interest to the UCTTC.

- 1 2) Strategic analysis, reports and discussions with other consultants, members of the
2 Council, and Council employees.
- 3 3) Contacts with persons interested in issues that are, or could be, before the
4 UCTTC.
- 5 4) Consultation, coordination and advocacy with others to ensure that the interests
6 of the UCTTC are served; and in connection therewith, personal appearances and
7 the preparation and filing of documents.
- 8 5) Intervention and participation in Administrative or Judicial proceedings; and in
9 connection therewith, personal appearances and the preparation and filing of
10 documents, pleadings, etc.
- 11 6) Lobbying or monitoring activities with respect to legislation of material interest
12 to the UCTTC; and in connection therewith, personal appearances and the
13 preparation and filing of documents.
- 14 7) Preparation of draft legislation, resolutions, recommendations and decisions.
- 15 8) Attending meetings and coordinating activities with other city agencies and other
16 bodies.
- 17 9) Telephone conferences and attending meetings with, and preparing materials for,
18 the Council, its members, the UCTTC, and CURO on utility regulatory and such
19 other matters as the Council, UCTTC or individual members thereof may
20 request.

21 **Process for Billing and Payment:**

22 Invoices shall be submitted electronically to CURO on a monthly basis by the end of the month following
23 the month in which charges are made. If requested, Advisors shall concurrently provide copies to the
24 Chairperson of the UCTTC and the Council Chief of Staff or Interim Council Chief of Staff. Unless
25 authorized by CURO, invoices should not include time from outside the statement's monthly billing
26 period. Within 30 days of receipt of the invoice, CURO shall complete its review and provide the
27 Chairperson of the UCTTC with a memo containing any recommendations and a request for approval for
28 CURO to process the invoice for payment.

29 Upon receipt of the recommendations and request for approval to process for payment, the Chairperson of
30 the UCTTC shall complete the invoice review and by memo to CURO: 1) authorize the payment of the
31 original invoice amount, or 2) substitute a different amount that is authorized for payment. If a different-
32 than-original invoice amount is authorized for payment by CURO, the Council Chief of Staff or Interim
33 Council Chief of Staff, and submitting Advisor should be immediately notified, with opportunity given
34 for discussion of the substituted amount. Upon the conclusion of this discussion, the Chairperson of the
35 UCTTC shall make a final determination of the amount authorized for payment and authorize CURO to
36 immediately process for payment of that amount.

37 **Billings:**

1 At the commencement of the contract period, Advisors shall identify, and the Chair of the UCTTC shall
2 approve, with a copy to CURO, all work categories in which Permitted Work as described herein is
3 expected to be necessary. Legal and technical Advisors for Utilities and legal and technical Advisors
4 for Cable, Telecommunications and Technology shall identify categories of work in a clear and
5 concise manner and shall include the use of FERC and Council docket numbers, rulemaking
6 proceedings, resolutions and motion numbers as well as clear and concise descriptions of the work
7 performed. The Advisors shall coordinate these identified work categories with their counterpart
8 Advisors within each of these two areas of work covered by the UCTTC, so that categories of work
9 appearing on bills are as uniform as reasonably achievable for every Advisor billing, within each of
10 the two areas of work.

11 If an Advisor performs work on account of or at the direction of the Council Chief of Staff, Council
12 Fiscal, CURO or an individual Councilmember, other than the current Chair of the UCTTC, the
13 associated billings should identify the party by use of the following codes.

Council Entity	Client code
Council Chief of Staff	CC2010
At-Large Division 1	CC2011
At-Large Division 2	CC2012
District "A"	CC2013
District "B"	CC2014
District "C"	CC2015
District "D"	CC2016
District "E"	CC2017
Council Fiscal	CC2040 -
Council Utilities	CC2050

14
15 If, during a contract period, Advisors determine a new category of work is needed, the Chair of the
16 UCTTC shall be promptly notified, with a copy to CURO, following which the Chair of the UCTTC shall
17 approve the new category before it is used in a bill. Existing categories should not be used for work for
18 which a new category should be created.

19 A "Miscellaneous or General Matters" category may be used for entries which do not fit into existing
20 categories and do not total greater than 10% of the total bill for the month. Entries in this category should
21 include a sufficient description so that it can be clear to the reviewer what work was performed.

22 Final work product for which time and expense entries appear on an invoice will be provided to the
23 Chair of the UCTTC, any Council Member or CURO upon request, to the extent public disclosure will
24 not jeopardize or injure the interests of the Council. If an Advisor determines that it should not be
25 promptly produced in order to protect the interests of the Council, the reason why it is not being
26 provided shall be timely communicated to CURO

1 Efforts should be made to identify other clients of Advisors not in conflict with the Council, who could
2 be expected to benefit from research or other Permitted Work that Advisors perform for the Council. If work
3 benefits other clients of Advisor, only the appropriate proportionate share of the cost should be billed to the Council.

4 Time records, by date, for each professional rendering service within each category shall be entered in
5 increments of 1/10th of hours (e.g.: ".7," or "1.6") and include a brief description of the work performed.

6 "Block billings" (billings combining a number of activities under a single time entry with little or no description of
7 individual tasks performed or the time taken for each) should not occur. An occasional exception may be made
8 when brief work activities within a category cannot be accurately or efficiently billed by making individual time
9 entries, in which case a description of the tasks performed may be provided under a single time entry for a short
10 period of total time. This exception should be limited to a circumstance where a number of short tasks within a
11 category are performed on the same day and billing for each would significantly increase the total time billed for
12 the tasks.

13 Billings should account for time without disclosing sensitive areas of strategic focus. When the subject of the work
14 is sensitive—for example if the work involves strategy pertaining to a current or potential administrative or court
15 proceeding—the specific nature of the discussions, analysis, or meeting, as well as the other persons involved, may
16 need to be left out of the detailed time summaries. However, this information should be retained by Advisors,
17 available to be immediately provided to the UCTTC or CURO if requested.

18 Advisors should review each billing prior to its submission to determine that each billing entry clearly and
19 succinctly describes the task performed and the reason for the task, if the reason is not apparent from the
20 task description itself. Individual and total charges for time and expenses should be checked to make
21 certain they are accurate.

22 When describing work performed, task descriptions should be written in plain English. Advisors should
23 not use overly general descriptions such as:

- 24 ○ Attention to or request attention to
- 25 ○ Review
- 26 ○ Continued (followed by a task)
- 27 ○ Organize file
- 28 ○ Follow up
- 29

30 In all cases, the Advisors should use appropriate descriptors that indicate the work that was performed and not use
31 overly general descriptions. These would include, but not be limited to, the following:

- 32 ○ Read _____
- 33 ○ Review of_(specify)_____
- 34 ○ Write _____
- 35 ○ Prepare for _____
- 36 ○ Edit (or Revise) _____
- 37 ○ Attend _____
- 38 ○ Conduct _____
- 39 ○ Phone conference with regarding _____
- 40 ○ Email to (or from) regarding _____

- 1 ○ Draft (in relation to reports, pleadings, motions and briefs) _____
- 2 ○ Correspondence with _____ regarding _____
- 3 ○ Research regarding _____
- 4 ○ Write memorandum to _____ regarding _____
- 5 ○ Meeting with _____ regarding _____
- 6 ○ Run analysis of _____
- 7 ○ Create engineering models
- 8 ○ Run assumptions for _____
- 9

10

11 Utility Advisors: work related to the Federal Energy Regulatory Commission (FERC) shall be billed under the
 12 specific FERC docket or rulemaking or simultaneous multiple dockets, for which the work is performed with an
 13 adequate description of the work activity performed provided in individual time entries.

14 Advisors should assign work internally within their firms to use the least expensive person to do work consistent with
 15 the best representation of the Council's interest. For example, a legal assistant, paralegal, or law clerk should be used to
 16 do routine work that does not require a more experienced lawyer's services. If an attorney chooses to perform research
 17 that could be as effectively performed by a law clerk, or a technical advisor chooses to perform research that could be
 18 as effectively handled by a research assistant, the professional should not bill at an hourly rate greater than the rate
 19 charged for a law clerk or research assistant unless sufficient explanation is provided for the necessity of using the
 20 higher-billing person.

21 Non-billable work (for which Advisors will not be paid):

- 22 1) Research or review of industry literature or trade publications.
- 23
- 24 2) Attendance at professional conferences, educational seminars, or continuing legal education
 25 activities.
- 26
- 27 3) Research and review of basic substantive law at issue in the matter for which the firm was retained.
- 28
- 29 4) Advisors should be judicious in limiting the number of persons in attendance at meetings (whether
 30 telephonic, web based or in person), depositions, hearings or other proceedings always considering how
 31 best to protect the Council's interests. The Council specifically recognizes that some matters require
 32 differing kinds of expertise among the professionals in the Advisor firms which would require more than
 33 one person of an Advisor firm in attendance at such meetings, depositions, hearings, negotiations, strategy
 34 sessions and the like in furtherance of the Council's interests. When more than one person within the
 35 Advisor's firm attends the same meeting, deposition, hearing or other proceeding, CURO may request or
 36 the Chair of the UCTTC may require an explanation of why it was in the best interest of the Council. In
 37 all cases where more than one person within an Advisor's firm bills for attendance at a meeting,
 38 deposition, hearing or other proceeding, the Chair of the UCTTC may decline the charge after
 39 discussion with the Advisor. Advisors should invite CURO to meetings when practical.
- 40
- 41 5) Administrative tasks, such as support or clerical services (work customarily performed by
 42 secretaries, word processors, proofreaders, managing clerks, information system technicians,
 43 librarians, computer operators, etc., including but not limited to photocopying, file
 44 maintenance, filing or delivering materials, arranging travel or scheduling depositions or

1 meetings) shall not be billed, either regularly or as overtime. Attorneys, paralegals, and law
2 clerks shall not bill for performing such tasks.

3
4 6) Time spent preparing, discussing, or supporting Advisor's invoices, including time or expense
5 associated with delivering or collecting Advisor's invoices.

6
7 7) Downtime or learning time that may result from staffing changes.

8
9 8) Time spent on staffing issues.

10
11 9) Time spent by Advisors traveling to or from New Orleans. If Permitted Work is performed
12 during such travel, it may be billed as described herein.

13
14 10) Time spent traveling to attend MISO, OMS, or ERSC-related meetings or events. If Permitted
15 Work is performed during such travel, it may be billed as described herein.

16 **Expenses:**

17 To qualify for reimbursement, expenses should be reasonable, documented and itemized, and occur in
18 conjunction with services described in the time entries. Expenses should identify the bill category to
19 which they pertain. The number of persons present in connection with an expense item should be
20 indicated where such information is relevant to ensure that the expense is reasonable.

21 Fees charged by electronic or other research services, including library fees, Westlaw, Lexis and other
22 online services are considered general overhead and are not reimbursable.

23 Costs of court reporters and transcripts shall be billed at actual cost. Advisors should obtain the lowest
24 possible charge reasonably available for court reporting fees, including any possible volume discounts.
25 The least-expensive sufficient option for transcripts shall be selected. Any billing for more than a single
26 transcript of the same testimony or event for all Advisors must be adequately explained; otherwise, the
27 billing attorney shall receive the transcript and provide for the distribution of copies to other Advisors as
28 an administrative expense to the extent permitted by law.

29 Electronic transfer of documents (e.g., e-mail) shall be used if possible. Billings for express mail or courier
30 charges will not be paid unless an acceptable explanation is provided of why such measures were necessary.
31 If such charges are necessary, actual reasonable charges will be reimbursed. If an Advisor has a volume
32 discount arrangement with a vendor, charges shall be made on that basis. Charges for time spent preparing
33 express mail packages are not reimbursable.

34 Items or services that will not be reimbursed: customary office supplies; routine postage; facsimile charges;
35 fees incurred by a timekeeper for printing or scanning; and long-distance charges or other telephone charges
36 for phone calls made at an Advisor's office or place of business.

37 Photocopying charges not exceeding \$0.10 per page will be reimbursed. If the use of an outside copying
38 service would be more economical and confidentiality is not an issue, the service should be used.

1 Approval must be obtained in writing from CURO prior to using any third-party services for which
2 reimbursement will be requested, other than legal-process servers and court reporters. If approved, actual
3 reasonable charges will be reimbursed.

4 All necessary and ordinary travel expenses are reimbursable only if prior authorization for the travel is
5 provided by CURO or the Chair of the UCTTC. "Ordinary" as used here means the lowest-cost airfare
6 that is reasonably available, reasonable-cost ground transportation and parking, and meals that do not
7 exceed in cost the amounts allowed employees of the City of New Orleans as described in City Policy
8 Memo 9 (R).

9 Bills containing requests for reimbursement should include the dates, the destination of travel, and the
10 name of the traveler. Receipts should be provided. In rare cases, exceptions to this required detail may be
11 approved by CURO for reasons of confidentiality or where it is clear that requirements are unduly
12 burdensome or otherwise not feasible. Otherwise, the following expenses require receipts: telephone bills,
13 reproductions/copies, ground transportation, airfare, auto rental, taxi, hotel/lodging, third party, research,
14 business meals, publications, courier services, overnight delivery services, special mail handling, postage,
15 and individual miscellaneous expenses. In cases where no receipt is available, such as internal office
16 photocopying, the bill should contain office records verifying the charge.

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

18 [END OF AGREEMENT]

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