

**LEGAL SERVICES CONTRACT
LAW DEPARTMENT**

This contract is entered into between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation ("City") and Wilmer Cutler Pickering Hale and Dorr LLP, a limited liability partnership ("Contractor").

RECITALS

The City Attorney is authorized to engage outside attorneys on behalf of the City to assist the City Attorney's Office in its representation of the City and its officers and employees.

The City Attorney may seek to assign outside counsel to provide legal representation, support and resources, as well as specialized legal advice to the City.

Contractor is experienced in providing legal representation in the areas of the law deemed necessary by the City Attorney and has the necessary resources to do so.

The parties agree as follows:

SECTION 1. SCOPE OF SERVICES

- A. The City hereby retains and employs Contractor to provide legal representation of the City, its duly authorized officers, employees, and volunteers, as the Contractor's areas of concentration and experience may allow. Contractor shall perform the following Scope of Services (the "Services"):
- 1) Advise the City regarding the impact of state legislation affecting the City and/or the Board of Police Commissioners, including but not limited to, SB 678 and SJR 38 (the "Legislation");
 - 2) Advise the City regarding litigation opportunities related to the Legislation and/or related law;
 - 3) Advise the City regarding, and upon request represent, the City, and any officials or employees, in any related litigation; and
 - 4) Perform such other related items as assigned by the City Attorney.
- B. Contractor will provide these Services in accordance with the City's Legal Representation Guidelines, which are attached hereto as Exhibit A and incorporated herein by this reference.
- C. The Services provided pursuant to the Contract are nonexclusive and the City is not limited by this Contract from entering into other Contracts for legal services with other attorneys, nor is the City required by this Contract to assign any specific legal matters or volume of legal matters to Contractor.

SECTION 2. TERM

City agrees to retain Contractor from the date of this Contract through the date the legal services are no longer needed. Contractor will undertake to represent the City to the conclusion of each matter assigned, even if the conclusion extends beyond the term of this Contract. The City Attorney is authorized to enter into amendments to extend the Term and time of performance for this Contract and the Attorney Fees paid for this Contract.

SECTION 3. ATTORNEY FEES

The 'Not To Exceed' amount of this Contract is \$425,000.00. In no event may Contractor earn or incur fees or expenses and charge them to the City in excess of the 'Not To Exceed' amount of this Contract.

- A. Contractor will provide the City with legal services under this Contract at the following rates and charges. Hours of service shall be billed based on increments of no less than one/tenth of an hour and shall represent actual time spent, rather than a standard charge for the activity performed.

Attorneys:		<i>Hourly Rates:</i>
Debo Adegbile	Partner	\$1,092.25
Drew Dulberg	Partner	\$994.50
Ivan Panchenko	Counsel	\$930.75
Clara Spera	Sr. Assoc.	\$901.75
Britany Riley-Swanbeck	Assoc.	\$726.75

Contractor agrees to assign matters to paralegals and law clerks to achieve the most cost effective service in the City's best interest. Contractor agrees not to bill for the services of more than one attorney (or paralegal/law clerk or combination of attorney, paralegal/law clerk) who attends the same meeting, conference or event unless approved in advance. Contractor agrees to assign work to attorneys, paralegals and law clerks in a manner to achieve the most cost effective benefit to City as is in the City's best interest.

- B. It shall be a condition precedent to payment of any invoice from Contractor that it be in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by City as a result of breach or default by Contractor, City may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due City from Contractor may be determined.
- C. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Contract.
- D. The City is not liable for any obligation incurred by Contractor except as approved under the provisions of this Contract.
- E. Notice of Approaching the 'Not To Exceed' amount of the Contract. If Contractor's total billings are approaching within 10% of the 'Not To Exceed' amount specified above, Contractor shall inform the City Attorney of the same in writing. Contractor acknowledges that the City cannot pay any invoices that contain fees in excess of the 'Not To Exceed'

amount unless this Contract is amended to increase the Attorneys Fees and sufficient funds exist in the budget appropriation for the legal services.

SECTION 4. RESERVED

SECTION 5. RESERVED

SECTION 6. INSURANCE

A. The Contractor shall procure and maintain in effect throughout the duration of this Contract insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Contract, the Contractor shall supply such insurance at the City's cost if reasonably available in the conventional Insurance Marketplace.

1. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written to include the following provisions:

- a. Severability of Interests Coverage applying to Additional Insureds
- b. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.

2. If applicable, Workers' Compensation Insurance, as required by statute, including Employers Liability with limits of:

Workers' Compensation Statutory Employers Liability \$100,000 accident with limits of:

- \$500,000 disease-policy limit
- \$100,000 disease-each employee

3. Commercial Automobile Liability Insurance: with a limit of \$1,000,000 written on an "occurrence" basis, covering hired, and non-owned automobiles. If the Contractor does not own any vehicles, coverage shall be provided on a "hired autos" and "non-owned autos" basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by the Contractor.

4. Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.

B. The Commercial General Liability Insurance specified above shall provide that the City will be included as additional insureds for the services performed under this Contract. The Contractor shall provide to the City at execution of this Contract a certificate of insurance showing all required coverage. The certificates of insurance

will contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be given in accordance with the policy provisions which shall not be less than thirty (30) days' notice of cancellation except for non-payment of premium which shall not be less than ten (10) days' notice of cancellation.

C. All insurance coverage must be written by companies that have an A.M. Best's rating of "A-VII" or better, and are licensed or approved by the State of Missouri to do business in Missouri.

D. If the coverage afforded is cancelled or its renewal is refused, notice shall be given in accordance with Contractor's policy provisions. In the event of Contractor's failure to maintain the required insurance in effect, the City may order the Contractor to immediately stop work, and upon ten (10) days-notice and an opportunity to cure, may pursue its remedies for breach of this Contract as provided for herein and by law.

E. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

SECTION 7. TERMINATION

The City has the right to terminate this Contract, in whole or in part, without penalty, by notifying Contractor in writing of such termination upon ten (10) days prior to the effective date of such termination. Such notification of termination shall state the effective date of termination. In the event of such termination, Contractor shall, unless otherwise mutually agreed upon in writing, cease all services immediately, except such services that are necessary to wind-up, in a cost-effective manner, all services being provided. In the event of termination, Contractor shall be paid compensation for services performed and properly billed pursuant to the terms of this Contract to the effective termination date but not in excess of the 'Not To Exceed' amount.

SECTION 8. ASSIGNMENT AND SUBCONTRACTING

Contractor shall not assign, transfer or delegate any rights, obligations or duties under this Contract, nor shall Contractor subcontract the provision of Services under this Contract, without prior written consent of the City Attorney. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.

Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City. If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the

Contract. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. In the event Contractor has retained a subcontractor without the City's prior written consent, City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

SECTION 9. RESERVED

SECTION 10. AFFIRMATIVE ACTION. If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- A. Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- B. Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Right and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years.
- C. Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- D. Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Right and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

SECTION 11. TAX COMPLIANCE

If the City's payments to Contractor exceed \$160,000.00 for the period of May 1st through April 30th, Contractor shall provide proof of compliance with the City's tax ordinances administered by the City's Commissioner of Revenue as a precondition to the City making the first payment under this Contract. Contractor also shall submit to the City proof of compliance with the City's tax ordinances administered by the City's Commissioner of Revenue as a condition precedent to the City making final payment under the Contract.

SECTION 12. AMENDMENT AND MODIFICATION

No provision of this Contract will be deemed waived, amended or modified by either party unless such waiver, amendment or modification is in writing and signed by the City Attorney and the authorized agents of Contractor.

SECTION 13. COMPLIANCE WITH LAWS

Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this contract.

SECTION 14. GOVERNING LAW

This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The City and Contractor: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum *non conveniens* as an objection to the location of any litigation.

SECTION 15. CONFLICTS

Contractor warrants that it has used due diligence to determine if it has a conflict in representing the City and that it does not except as specifically detailed in a separate document provided to the City Attorney. By executing this Contract, the Contractor and the City have agreed that the representation contemplated in this Contract has been approved by the City and by those clients of the Contractor who must also consent to the representation due to the conflict. During the term of this Contract, the Contractor may not represent a client whose position may be adverse to the City in work that is substantially related to the Contractor's work for the City without obtaining the City's prior written consent to the adverse representation in accordance with the Rules of Professional Conduct.

SECTION 16. INDEPENDENT CONTRACTOR

Contractor is an independent Contractor and not an employee of the City. No permitted or required approval by the City of documents or the Services of the Contractor shall be construed as making the City responsible for the manner in which the Contractor performs the Services or for any negligence, errors or omissions of the Contractor. Such approvals are intended only to give the City the right to satisfy itself with the quality of the Services performed by Contractor and Contractor specifically retains its independence of professional judgment.

SECTION 17. EXCLUSIVE BENEFIT OF THE PARTIES/NO THIRD PARTY RIGHTS

Except as specifically provided in this section, this Contract is not intended to create any rights, benefits, powers or interests in any third party and this Contract is entered into for the exclusive benefit of the City and the Contractor.

SECTION 18. RECORDS

A. For purposes of this section:

1. "City" shall mean the City Auditor, the City's Internal Auditor, the city's Director of Civil Right and Equal Opportunity Department, the city Manager, the City department administering this Contract and their delegates and agents.

2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.

B. Contractor shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. City shall have a right to examine or audit all Records and Contractor shall provide access to City of all Records upon ten (10) days written notice from the City in a manner consistent with Contractor's obligations to other clients.

C. The books, documents and records of Contractor in connection with this Contract shall be made available to the City Auditor, the City's Internal Auditor, the City's Director of Civil Right and Equal Opportunity Department and the City department administering this Contract within ten (10) days after the written request is made in a manner consistent with Contractor's obligations to it other clients.

SECTION 19. SEVERABILITY

Except as specifically provided in this Contract, all of the provisions of this Contract shall be severable. In the event that any provision of this Contract is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Contract shall be valid unless the court finds that the valid provisions of this Contract are so essentially and

inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Contract could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

SECTION 20. PROHIBITION AGAINST CONTINGENT FEES

Contractor warrants that no person or entity has been employed or retained to solicit or secure this Contract upon a Contract or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the City shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage brokerage or contingent fee.

SECTION 21. NOTICES

All notices required by this Contract shall be in writing sent by email and regular U.S. mail, postage prepaid, or commercial overnight courier to the following:

City:

Matthew Gigliotti
City Attorney
23rd Floor, City Hall, 414 E. 12th Street
Kansas City, MO 64106
matthew.gigliotti@kcmo.org

Contractor:

Andrew Dulberg
WilmerHale
60 State Street
Boston, MA 02109
andrew.duberg@wilmerhale.com

Either party may, at any time and from time to time, change its representative or address by written notice to the other.

SECTION 22. ENTIRE CONTRACT

This Contract and the accompanying Legal Representation Guidelines constitute the entire Contract between the parties and may only be modified, supplemented or amended by a written Contract signed by both parties. In the event of any inconsistency between the terms of this Contract and the Legal Representation Guidelines, the terms of this Contract shall prevail; if there is any inconsistency between oral direction and the Legal Representation Guidelines, the Legal Representation Guidelines shall prevail.

SECTION 23. TIME OF ESSENCE

Time is of the essence as to each and every provision of this Contract.

SECTION 24. EMPLOYEE ELIGIBILITY VERIFICATION

If this Contract exceeds five thousand dollars (\$5,000.00), the Contractor shall execute and submit an affidavit, in a form prescribed by the City, affirming that the Contractor does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U. S. C. § 1324a(h)(3). The Contractor shall attach to the affidavit documentation sufficient to establish Contractor's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986. Contractor may obtain additional information about E-Verify and enroll at www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm. For those contractors enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Contractor will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this Section. The Contractor shall submit the affidavit and attachments to the City prior to execution of the Contract, or at any point during the term of the Contract if requested by the City.

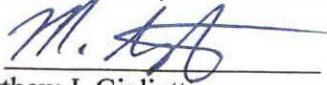
SECTION 25. QUALITY SERVICES ASSURANCE ACT. If this Contract exceeds \$160,000.00, Contractor certifies Contractor will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$13.75 per hour in compliance with the City's Quality Services Assurance Act, Section 3-66, Code of Ordinances or CITY has granted Contractor an exemption.

SECTION. 26. ANTI-DISCRIMINATION AGAINST ISRAEL. If this Contract exceeds \$100,000.00 and Contractor employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Contractor certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

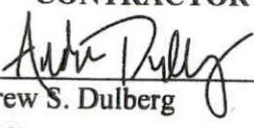
SECTION 27. AUTHORITY

The Contractor represents and warrants that the person signing this Contract on behalf of the Contractor has all requisite authority to bind the Contractor to the terms and obligations of this Contract.

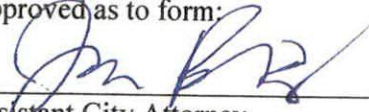
KANSAS CITY, MISSOURI

By: 
Matthew J. Gigliotti
City Attorney
Date: 4/14/22

CONTRACTOR

By: 
Andrew S. Dulberg
Partner
Date: April 13, 2022

Approved as to form:


Assistant City Attorney

CERTIFICATION OF AVAILABILITY OF FUNDS

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

by  4-19-2022
Tammy Queen
Director of Finance

EXHIBIT A

LEGAL REPRESENTATION GUIDELINES

These Legal Representation Guidelines ("Guidelines") set forth the procedures that govern the City Attorney's Office's ("City") relationship with its contracted counsel ("Contractor") and City's expectations when retaining Contractor to represent City.

City regards its relationship with each retained attorney and Contractor as personal and contractual. Adherence to these Guidelines is a condition of maintaining that relationship. City expects Contractor to maintain the highest ethical standards and to comply with all applicable laws, rules, and regulations governing ethical conduct. Nothing contained in these Guidelines is intended to, nor shall it, restrict Contractor's exercise of professional judgment or infringe upon the attorney-client relationship in any manner.

City expects Contractor, and any para-professionals working on City's matters, to read and comply with these Guidelines. These Guidelines supersede any previously provided Guidelines.

1. Introduction. Contractor shall become familiar with and adhere to these Guidelines in providing legal services in connection with the matter. The City expects Contractor to provide high quality legal services at reasonable cost, to maintain transparency in billing, and to be mindful of the responsibility to conserve public resources without compromising the quality of the services provided. Contractor will work in conjunction with and at the direction of the City Attorney in the performance of legal services hereunder.

In the event of conflict between these Guidelines and the provisions or terms of the Contract, the provisions and terms that offer the City the most favorable result in the sole opinion of the City Attorney whose decision is final shall govern and prevail.

The services provided pursuant to the Contract are nonexclusive and the City is not limited by this Contract from entering into other contracts for legal services with other attorneys, nor is the City required by this Contract to assign any specific legal matters or volume of legal matters to Contractor.

2. Designated Contact.

- a. City Attorney will designate a Law Department attorney (the "Designated Contact") to work with Contractor; if no attorney is designated then the City Attorney shall be Designated Contact for purposes of these Guidelines. Contractor shall contact the Designated Contact for any approvals required by these Guidelines of litigation events or expenses. Contractor should consult frequently with the Designated Contact regarding matters Contractor is handling so that the City Attorney will have current information about the status of the matters and can have input on such questions as whether a particular assignment is necessary, a particular deposition is worthwhile, or a particular document production can be completed

more economically in-house. As appropriate, Contractor will schedule periodic meetings and conference calls with the Designated Contact to discuss developments and strategy in the matter.

- b. Contractor shall contact the Designated Contact at the beginning of the engagement to set up an initial meeting at which relevant names and phone numbers, to the extent then known, can be given to Contractor, and arrangements can be made for the delivery of documentary evidence, including electronic discovery, to Contractor. Whether such a meeting is actually held will be at the discretion of the Designated Contact.
- c. Contractor should use its professional judgment in deciding whether to obtain the prior approval of the Designated Contact for a litigation event, where such approval is not specifically required by these Guidelines. Litigation Events that are specified in a plan of litigation and/or a budget that was previously submitted to and approved by the Designated Contact will ordinarily not need to be re-submitted for approval at the time the litigation event is about to transpire.
- d. All bills submitted by Contractor will be reviewed by and are subject to the approval of the Designated Contact.

3. Notifications. Contractor shall promptly advise the Designated Contact in writing of any significant developments in a matter. Unless a court appearance, settlement discussion or other important meeting is scheduled less than 72 hours in advance, Contractor shall notify the Designated Contact of such events at least 72 hours in advance (or within such other time as the Designated Contact may agree to) to enable Contractor and other representatives of the City to attend or participate. In the event that a court appearance, settlement discussion or other important meeting is scheduled less than 72 hours in advance, Contractor shall notify the Designated Contact at as early a time as is practicable.

4. Settlement Offers or Negotiations. Contractor shall immediately convey all offers of settlement to the Designated Contact. Contractor may not enter into any settlement negotiations or settlements without the prior approval of the Designated Contact. The City Attorney will make all determinations concerning such offers of settlement. Contractor shall consult with the Designated Contact and obtain the Designated Contact's prior written approval for any proposed resolution of the matter Contractor is handling. Contractor will not affect a final compromise of any matter, nor assert any conflict waivers without the prior written approval of the City Attorney.

5. Copies of Documents. Contractor shall provide the Designated Contact with copies of drafts of all significant pleadings in any litigation or other documents that Contractor intends to provide to, or file with, a court or a government agency that may potentially affect the disposition of a matter, for the Designated Contact's review and approval, at least 72 hours before they are filed or submitted (or such other time as the Designated Contact may agree to). Contractor shall also provide the Designated Contact with final documents and/or imaged

copies of as-filed documents, as the Designated Contact may request, as soon as is reasonably practicable. (If no instructions are received from the Designated Contact, Contractor shall, at a minimum, provide copies of as-filed documents.)

6. Copies of documents in electronic form. In addition to the requirements of Paragraph 5 above, Contractor shall provide the Designated Contact with electronic copies, in native file format, of all final memoranda, briefs and other work product produced in the case/matter approximately every six months during the course of the engagement, and at the end of the engagement. Contractor shall provide each case/matter's electronic documents in a format agreed upon in writing and if not agreed upon on read-only DVDs or CDs with labeling, directory structure, file names and other descriptive details, and with an encryption method, all as the Designated Contact may reasonably require.

7. Ownership and Access. All materials developed, prepared, kept or acquired during the performance of legal services under this Contract, including without limitation, all finished or unfinished documents, research, pleadings, memoranda, briefs, data, studies, surveys, drawings, manuals, maps, models, photographs, and reports (hereinafter collectively called "Documents") shall be available to the City Attorney upon request. Contractor shall not disclose any information gained in the representation without the City Attorney's written permission. Documents shall be the exclusive property of the City and all such materials shall be retained by Contractor for a minimum of five (5) years from the date any and all appeal rights expire or conclusion of the matter. At the end of this retention term, the City Attorney shall be notified and given sixty (60) days to reclaim Documents or each file prior to its destruction by Contractor. At all times, the City Attorney and the Designated Contact shall have access to all Documents within 24 hours of a request for access.

8. Public Information. Contractor acknowledges that information created or exchanged in the course of representation of a governmental body may be subject to the Missouri Sunshine Law and may be subject to required disclosure in a publicly-accessible format. Contractor will exercise professional judgment and best efforts when creating documents or other media intended to be confidential or privileged attorney-client communications that may be subject to disclosure under the Missouri Sunshine Law (e.g. invoices where incidental notation may tend to reveal litigation strategies or privileged information). Contractor should mark confidential or privileged attorney-client communications as confidential. This paragraph shall not be interpreted to limit Contractor's duty to provide full disclosure to City and the City Attorney as necessary in Contractor's judgment to represent City with due professional care or as required by applicable law or disciplinary rules.

9. Conflicts of Interest. The Rules of Professional Conduct and State and Local Laws may affect whether and under what limitations a public entity may allow a waiver of a conflict of interest in legal representation. To the extent that the Rules and Law in this jurisdiction allow a waiver of a conflict of interest, the waiver must conform to those requirements. Given the breadth of Contractor's practices, it is possible that during the time Contractor is representing the City, some of Contractor's present or future clients will be engaged in transactions, or encounter disputes with the City. City agrees that Contractor may continue to represent, and may undertake in the future to represent, existing or new clients in any matter

that is not substantially related to our work for City, even if the interests of such clients in those matters are directly adverse to the City, including in any litigation, arbitration or other dispute resolution proceedings against the City in any capacity. At no time would Contractor use or disclose any confidential or proprietary information relating to the representation in connection with Contractor's representation of another client without City's written consent.

It is also our mutual understanding that Contractor is being engaged by, and will represent, only the City, and not any other governmental or administrative body, bureau, department or other entity in or affiliated with Kansas City, Missouri, and that Contractor's representation of the City will not give rise to any conflict of interest in the event other clients of Contractor are or become adverse to any such entity. Further, this will confirm that, unless specifically confirmed otherwise in writing, Contractor's representation is not a representation of any officials or employees of the City.

10. Contact with the Media. Contractor is not authorized to comment publicly on any City matters, to issue statements or press releases or to disclose to the media any facts involving or relating to the matter Contractor is handling without the prior approval of the Designated Contact or the City Attorney. Contractor shall cooperate with the Designated Contact regarding requests for information and, if requested by the Designated Contact, assist in the preparation of documents relating to the matter. If Contractor receives any media inquiries, Contractor shall refer them to the Designated Contact.

11. Financial Records and Submission of a Budget. Contractor shall provide the Designated Contact with a budget. If Contractor is handling multiple matters, then Contractor must submit a budget for each. The budget shall conform to the 'Not To Exceed' provisions of the Contract and include a good faith estimate of the cost of the services, including an identification of each of the various tasks Contractor expects to perform, the projected number of hours of attorney time and paralegal time (if any) estimated to be needed to complete each task, and the fees and costs anticipated to be associated with each task. If, during the course of the representation, it appears that Contractor may exceed the budget for a particular task by 10% or more, Contractor shall notify the Designated Contact in advance, provide a written explanation for the anticipated variance from the budget, and obtain the approval of the Designated Contact for any such variance. Contractor shall abide by the budget approved by the City for each of the matters it is assigned. Contractor shall report monthly on the status of its approved budget. The City is not responsible for budget overruns unless they have been pre-approved in writing by the City Attorney.

12. Staffing.

- a. Attorneys. Contractor and the Designated Contact will agree upon the specific attorney(s) who will have a lead role in providing the legal services. Contractor may not substitute a different attorney for a lead role without the Designated Contact's prior approval in writing. Contractor shall submit a staffing profile that identifies the partners, associates and paralegals who will work on the matter. Changes in such staff are subject to the prior approval of the Designated Contact. The City reserves the right

to request, and to object to, representation by specific attorneys within Contractor's firm. Contractor should minimize staffing changes; however, it is recognized that staffing changes may be necessary from time to time. The City will not pay for learning time associated with a change in personnel initiated by Contractor, except that, if the change in personnel was made at the request of the Designated Contact and not because of poor performance, inaccessibility or lack of cooperation by the original personnel, the City will pay the reasonable costs associated with the review of the file by the new personnel.

- b. In performing the services, Contractor shall select, for each task, an individual suitable for the task and the specific needs of the matter. Each such individual must have appropriate experience in the area in which he or she is performing services and hold all necessary licenses and admissions.
- c. Contractor shall not:
 - 1. overstaff City matters;
 - 2. charge for any services that duplicate the effort of other assigned staff;
 - 3. charge for time of newly assigned lawyers, after a change in personnel, spent to become familiar with the matter, or time spent duplicating work performed by an attorney previously assigned to the matter except in the circumstances permitted in 10.a. above.
- d. Limitation on Hourly Billing for Multiple Attorneys. The City will pay for only one attorney to attend meetings, depositions, hearings, court conferences, and trials, unless expressly and clearly specified in Contractor's litigation plan, or unless otherwise approved in advance by the Designated Contact.
- e. Paralegals. Some examples of the kinds of activities that generally should be performed by a paralegal, and not by an attorney, are:
 - 1. Ordering searches such as title or legal records searches;
 - 2. Ordering public records;
 - 3. Organizing and re-organizing files that involve case documents such as separating and cataloguing responses to requests for production of documents;
 - 4. Indexing file material, but only if a degree of professional judgment with respect to categorization is required;
 - 5. Preparing subpoenas or notices for deposition, entry of appearance, substitution of Contractor, requests to produce, jury trial demands, and other routine litigation documents;
 - 6. Summarizing answers to interrogatories;
 - 7. Preparing records requests and subpoenas;
 - 8. Summarizing employment and other records;
 - 9. Abstracting or digesting depositions; and
 - 10. Summarizing document production.

Unless approved in advance by Designated Contact, these activities must not be billed at and will not be paid at an attorney rate.

- f. Experts and consultants. The selection and retention of experts, appraisers, consultants, and investigators shall be coordinated with and approved by the Designated Contact. Contractor shall itemize charges for any such services on its invoices.

13. Legal Research. The City will pay only for research reasonably necessary to complete the assignment. Contractor shall obtain prior approval from the Designated Contact before conducting a legal research assignment that is expected to exceed ten hours. Contractor shall consult, within its own firm and with the Designated Contact, prior to conducting legal research, to determine whether similar issues have been previously researched by the firm or by the City Attorney's Office. This is especially true of Notice of Claim, Statute of Limitations and Immunity issues, which are frequently litigated by the City. Contractor is required to use such prior research where possible and applicable, and in such situations may charge the City only for research connected with updating the previously researched issues. Contractor shall not initiate research before it is needed unless the Designated Contact expressly approves in advance.

14. Use of Certain City Resources. Where practicable, Contractor should use the City's resources for service of subpoenas unless the Designated Contact directs otherwise. Contractor and the Designated Contact are expected to determine if City has facilities or contracts for services needed in the course of the representation that may offer cost savings if used; for example, in-house printing, shipping contracts, court reporting services, messenger services, etc. and if available at a cost savings those services must be used unless Designated Contact directs otherwise.

15. Intra-Office Conferences. Intra-office conferences may be held for the purpose of discussing strategy and legal issues in the matter if included in the budget. All intra-office conferences for which the City will be billed may be held only as needed, and their length, as well as the number of persons attending, shall be kept to a minimum, included in the budget and approved in advance by Designated Contact. The City will not pay for conferences that are supervisory or instructional (including conferences regarding case management). Also, Contractor may not bill for non-substantive internal conferences about City matters. Bills for intra-office conferences shall describe in detail the reason for the conference and the subject matter of the discussion. In the event an intra-office conference is essential to the representation and not approved in advance by Designated Counsel, the Designated Counsel must be notified as soon as practical following the conference as to the reason for the conference, the persons attending and its outcome. The City may agree to pay for the conference if it concludes the reason for it and its cost is fully justified.

16. Reviewing Files. The City will not pay for the review of a file by an attorney who is merely supervising the work of another employee of the firm. Similarly, Contractor shall not bill the City for file review if an event does not precipitate such review (such as a telephone call or receipt of correspondence) or if the file review does not result in the creation of any tangible work product. The City considers such review to be part of Contractor's overhead

and contained in Contractor's hourly rate structure. Any invoice that includes "file review" as an item shall provide details or that item will not be considered for payment by the City.

17. Document or Deposition Summaries. Contractor may not charge for routinely digesting, abstracting, or summarizing documents and depositions, unless the Designated Contact has expressly and specifically agreed to such services and they have been included in the budget.

18. Written Status Reports. Contractor may not charge the City for any status report not included in the budget, unless the status report was requested by the Designated Contact and the Designated Contact has agreed that it is compensable.

19. Communications with City Employees Outside the City Attorney's Office. Before Contractor engages in any substantive communications with City officers or employees outside of the City Attorney's Office, Contractor shall inform the Designated Contact of its intention to have such a communication. After the first instance, Contractor is not expected to inform the Designated Contact each and every time it has such a communication unless the Designated Contact has specifically asked Contractor to provide such information or unless a communication is likely to go or has gone beyond the scope of the communications approved by the Designated Contact.

20. Approaching the Not-to-Exceed Amount of the Contract. If Contractor's total billings are approaching (i.e., within 10% of) the "Not-To-Exceed" amount specified in the Engagement Letter, Contractor shall inform the Designated Contact in writing. The City cannot pay any invoices that contain fees in excess of the Not-To-Exceed amount unless approved in writing by the City Attorney, sufficient funds exist in the budget appropriation for these services, and the Engagement Letter is amended to increase the Not-To-Exceed amount by an amount sufficient to cover such fees and approved by the City Attorney.

21. Reimbursable Expenses. The City will reimburse Contractor for actual, reasonable and necessary out-of-pocket expenses at cost without mark-up. All expenses shall be documented to the satisfaction of the City Attorney. Some examples of expenses for which the City may allow reimbursement, unless excluded by the terms of a particular contract, are the following:

- a. Messenger Services.
- b. Overnight or other expedited delivery services. The City does not expect all documents to be hand-delivered or sent by an overnight or express delivery service, but such services may be used where appropriate under the circumstances.
- c. Photocopying and Bates Labeling. Photocopying and Bates labeling costs are reimbursable if performed for Contractor by an outside photocopying vendor. In such instances, reimbursement will be made at the lower of Contractor's actual cost or an agreed maximum amount per page for routine copies, agreed maximum amount per page for color copies, and agreed maximum amount per page for routine Bates labeling. Whenever Contractor seeks reimbursement for copying or Bates labeling by an outside photocopying vendor, Contractor shall present to the City a copy of the photocopying

vendor's invoice, which shall identify the type of copying (e.g., routine or color), the number of pages of each type copied, the number of pages Bates labeled, and the cost per page for each of these services. In-house copying costs are not reimbursable. When in-house Bates stamping is performed by a paralegal, Contractor will be reimbursed for the time spent Bates stamping at the paralegal's hourly rate. Where productivity software is available to Bates Stamp documents and it is not used, Contractor must provide an explanation for not using the software and the City may adjust the amount of payment based on its estimate of the excess cost attributed to not using the productivity software.

- d. Lodging and Meals. Lodging and meals are reimbursable only in the context of non-local travel necessitated by the legal services to be provided under the Contract, and then will be reimbursed at rates no greater than the lesser of the actual cost (without markup) or the maximum amount set forth in *the Meals and Incidental Expense Breakdown of the Federal Travel Regulation in effect on the date the expense was incurred, published at:*

www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC.

The City will not reimburse for meals in connection with local travel, meaning travel that is 100 miles or less from the offices of Contractor, unless the contract otherwise expressly provides. In no event will the City pay any broker's fee or finder's fee associated with the rental of any hotel room, apartment or other lodging.

- e. Travel expenses such as Air Fare, Mileage, Rental Cars, and Taxi Fares. Contractor shall bill air travel under the contract at no higher than the economy or coach fare. Contractor shall use its best efforts to make airline reservations in advance so as to take advantage of lower air fares. While on non-local travel under the contract, meaning travel that is more than 100 miles from Contractor's offices, Contractor may bill the City for reasonable mileage or for the cost of a rental car when necessary and when the cost of a rental car is less than other forms of ground transportation. If the cost of a rental car is less than the mileage expense, a rental car must be used. Under such circumstances, the City will reimburse only at the rate for small, non-luxury vehicles. Contractor may seek reimbursement for taxi fares when on non-local travel but any requests for reimbursement for taxi fares will be closely scrutinized for necessity and reasonableness.

If Contractor's travel is both for the City and for another client or other activities of Contractor, Contractor may bill the City only for the City's pro rata share of the travel expenses.

22. Travel Time. Contractor may bill the City for travel time for non-local travel when approved in advance at the applicable hourly rate(s) as set forth elsewhere in the contract. If Contractor's travel is both for the City and for another client or other activities of Contractor, the City shall be billed only for the City's pro rata share of such travel time. Non-local travel shall be approved in advance by the Designated Contact. Consistent with Paragraph 10.d. of

these Guidelines, the City will pay for travel by only one person, unless the Designated Contact gives advance approval for travel by more than one person. Travel time for local travel is not authorized and may not be billed or paid.

23. *Non-Reimbursable Expenses.* The City will not pay for the following expenses, without limitation:

- a. facsimile charges other than the long distance charges associated with the transmission.
- b. local telephone expenses.
- c. office supplies.
- d. charges for business meals or refreshments, unless related to out-of-town travel and then only in accordance with these Guidelines.
- e. in-house messenger services.
- f. law books, journals, periodicals, subscriptions, etc.
- g. computer consultants or technical support (this does not apply to the situation where Contractor has engaged a computer, information technology or litigation technology support consulting firm to provide expert consulting services in support of and necessary to the representation).
- h. mobile phone charges.
- i. charges for Lexis, Westlaw, and other such research services.
- j. charges associated with purchasing or renting software or equipment such as copiers, printers, computers, etc.

24. *Non-Reimbursable Services.* The City will not pay for the following services, without limitation:

- a. secretarial, clerical or word processing services (whether ordinary, temporary or overtime).
- b. administrative services (including file creation, file organization and maintenance or closing)
- c. accounting, billing or book-keeping services (this does not apply to the situation where Contractor has engaged an accountant or accounting firm as a subcontractor)

to provide expert consulting services in support of and necessary to the representation).

- d. the time of summer associates.
- e. the time of law school graduates who are not admitted to the bar, except that, with the prior approval of the Designated Contact, such time may be billed at paralegal rates.
- f. the time of librarians.
- g. the time of computer or information technology support staff, or litigation technology support technicians (this does not apply to the situation where Contractor has engaged a computer, information technology or litigation technology support consulting firm to provide expert consulting services in support of and necessary to the representation).
- h. charges associated with creating, maintaining or using an information or case management system.
- i. the time spent reviewing, negotiating or executing this Contract or any amendments to this Contract.
- j. charges associated with preparing bills or negotiating disputes over bills.
- k. redrafting due to substandard work.
- l. the supervision, education or training of attorneys, paralegals, or other staff of Contractor, including assigning such staff on a transient basis to a City matter.
- m. office overhead costs of any kind.

25. *Additional Invoicing and Billing Guidelines.*

- a. Individuals assigned to work on a matter are expected to perform at high levels of efficiency.
- b. Contractor shall submit invoices for services rendered and/or for expense reimbursement, at a minimum, on a monthly basis. Invoices shall be submitted no more than 30 days after the end of the month in which the services reflected on the invoice were provided. However, any services rendered prior to April 30 of a given year be submitted no later than 10 days after that date; in addition, Contractor must provide an estimate of this invoice (to include all work and expenses that have not been previously billed incurred during the City fiscal year) on or before the last day of the

City fiscal year. The City prefers that invoices cover no more than one calendar month, so that no one invoice will show hours billed in different months. There may be situations in which this is not practical, such as where the billing is task-based. If billing questions arise, they can be discussed with the Designated Contact.

- c. Where Contractor has been assigned more than one case or matter under a particular contract, and each case or matter has a different case number associated with it, Contractor shall send a separate invoice for each such case or matter.
- d. Each invoice shall contain the following information:
 1. The case number.
 2. The name or title of the matter.
 3. A unique invoice number for the particular invoice.
 4. Contractor's taxpayer identification number.
 5. The name of the Designated Contact.
 6. Contractor's billing contact.
 7. The time period covered by the invoice.
 8. The date of the invoice.
 9. For hourly rate billing:
 - i. The specific dates of the services, the names of the persons who performed the services billed, their titles and, where applicable, their respective hourly rates.
 - ii. A full description of each charge. Where attorney client privileged or other confidential matters are subject to disclosure under the Public Records Law, the description should be reasonably full and complete for the City to make an informed decision regarding compliance with these Guidelines and the payment of the charges without disclosing the privileged or confidential information, disclosing the litigation strategy, or harming the City position in the matter. For charges requiring prior approval of the Designated Contact, note the date of the approval.
 - iii. Time spent in .10 of an hour increments. (Not applicable in the case of task-based billing.)
 10. For task-based billing: A description of each completed task for which payment is sought and the amount billed for the completion of the task.
 11. An itemized description of any disbursements and the charge for the disbursements.
 12. Time Keeper Summary.
- e. Contractor shall avoid vague or unclear descriptions of services rendered. A vague or unclear invoice is one that does not provide clear and specific information on, in most instances, the nature of the task, the reason for the task, the individual who performed the task, or the amount of time that was spent on a task. Contractor's invoices shall provide clear, specific information relating to each task. For example, a bill for a

telephone conversation shall specify the parties and the purpose of the call. A bill for the drafting or review of any correspondence, pleadings, or other documents shall specifically describe the item in question. A bill for legal research time shall specify the issue(s) researched. Where attorney client privileged or other confidential matters are subject to disclosure under the Public Records Law, the description should be reasonably full and complete for the City to make an informed decision regarding compliance with these Guidelines and the payment of the charges without disclosing the privileged or confidential information, disclosing the litigation strategy, or harming the City position in the matter. The City will seek clarification from Contractor where it finds a particular invoice to be vague or unclear and may reduce the amount of an invoice if a description satisfactory to the City is not provided.

- f. Block billing is not permitted in hourly rate billing. Block billed entries are items that contain a single charge for more than one activity or more than one type of disbursement. Each item of work shall be associated with a discrete charge. An example of unacceptable block billing is the following:

05/12/10 - Drafted letter to plaintiff's counsel; telephone conference call with plaintiff's counsel; discussed conference call with City Attorney's Office. 2 hours

- g. Unless Contractor is otherwise instructed by the Designated Contact, Contractor's invoices shall be addressed and submitted to:

Tara Kelly
Designated Contact
City Attorney's Office
23rd Floor, City Hall, 414 E. 12th Street
Kansas City, MO 64106

End of Guidelines for Contractor