



City of Spokane

Minor Contract Summary

OPR # OPR 2016-0188
 Cross Ref _____
 Destruct Date 2023
 Clerk's Dist. 02/29/16 *BR*

Incomplete submissions will be returned to the Department until all requirements are met.
 (Summary to be printed on blue paper)

Department Name Risk Management
 Department Project # _____

New Contract
 CR # Risk
 Date: 02/29/16

Contractor/Consultant

Name: Dennis Hession and the firm Kutak Rock LLP
 Address: 510 W. Riverside Ave., Suite 800
 City, State, Zip: Spokane, WA 99201-0506

Remittance Address:
 City, State, Zip

RECEIVED
 FEB 29 2016

CITY CLERK'S OFFICE

Summary of Services

Dennis Hession and the firm Kutak Rock LLP shall act as Special City Attorney to provide legal services, administrative oversight, management and advice to the City regarding the matter of Frank Straub v the City of Spokane filed in the Eastern District of Washington under Civil Action 2:16-cv-00029-TOR.

Amount: \$48,700.00

Budget Code: 0000 00000 00000 00000

Maximum Amount

Beginning Date: 02/29/16 Expiration Date: _____ Open-Ended:

- Quotes (per Purchasing Policy to be kept on file in Dept.)
- Insurance Certificate (as per contract)
- City Business License and expiration date
- If Public Works Contract, Contractor has been notified of State Law requirements
- UBI Number and Expiration Date

Department Verification Statement: My signature below verifies that all documentation has been completed.

Requestor/Verifier/Contact: Roxanne Imus, ext. 6811

Funds are available in the appropriate budget account

Accountant

Signature

Date

Department Head

Signature

Date

Other

Signature

Date

Other

Signature

Date

Distribution List

Contractor E-mail: <u>dennis.hession@kutakrock.com</u>	Contract Accounting: <u>kkeck@spokanecity.org</u>
Dept. Contact E-mail: <u>tdunivant@spokanecity.org</u>	Taxes and Licenses
<u>James.Scott@ascrisk.com</u>	

CONTRACT

THIS CONTRACT (the "Contract") is between the CITY OF SPOKANE, a Washington State municipal corporation (the "City"), and Kutak Rock LLP whose address is 510 West Riverside Avenue, Suite 800, Spokane, Washington, 99201 (the "Firm"). Dennis P. Hession shall be the primary contact at the Firm.

The parties agree as follows:

1. PERFORMANCE. The Firm is appointed Outside Counsel to act as SPECIAL CITY ATTORNEY to provide legal services, to include administrative oversight, management and advice to the City and individual officers and employees, to include Spokane City Council, regarding the matter of FRANK STRAUB v. THE CITY OF SPOKANE, a municipal corporation, CITY OF SPOKANE MAYOR DAVID CONDON, CITY OF SPOKANE CITY ATTORNEY NANCY ISSERLIS, and CITY OF SPOKANE CITY ADMINISTRATOR THERESA SANDERS, in their individual and official capacities, filed in United States District Court for the Eastern District of Washington under Civil Action Number 2:16-cv-00029-TOR, consistent with applicable laws and this Contract and other matters generally related thereto. The Firm shall have all powers and duties proscribed to the City Attorney under the Spokane City Charter Section 29 and the Spokane Municipal Code Section 3.01A.230 in order to effectively manage and perform the necessary administrative duties associated with the aforementioned matter. The Firm shall comply with the applicable sections of the attached "General Terms and Conditions for Outside Counsel".
2. CONTRACT TERM. This Contract shall begin upon signature by both parties and continue until terminated or completion of services, whichever is earlier. The City reserves the right to terminate this Contract, with or without cause, as determined in the sole discretion of the City Attorney.
3. COMPENSATION. The City shall pay the hourly fees and other charges as stated in the attached exhibit, up to a maximum amount of FORTY EIGHT THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$48,700.00), as full compensation for everything furnished and done under this contract.
4. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.
5. ANTI-KICKBACK. No officer or employee of the City, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in this Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.
6. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender

expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.

7. INSURANCE. During the term of this Contract, the Firm shall maintain in force at its own expense, the following insurance coverages:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 for each occurrence and \$2,000,000 in the aggregate, for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this Contract;
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and
- D. Professional Liability (E&O) Insurance with a combined single limit of not less than \$5,000,000 for each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Contract. If coverage is to be provided on a claims-made basis, the Firm shall warrant that any policy retroactive date precedes the effective date of this Contract. The coverage must remain in effect for at least two (2) years after this Contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty-five (45) days written notice from the Firm or its insurer(s) to the City. As evidence of the insurance coverages required by this Contract, the Firm shall furnish acceptable insurance certificates to the City at the time it returns the signed Contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to the City's acceptance and shall have a rating of A- or higher by Best. The Firm shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance. Any self-insured retentions must be declared to, and approved by the City. If not approved, the City may require that the insurer reduce or eliminate the self-insured retentions with respect to the City, its officers, agents, employees and volunteers. Any modification or variation from these insurance requirements shall be made by the Office of the City Attorney and/or the City's Risk Manager in the City's sole discretion.

8. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Firm shall be responsible for

contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

9. MISCELLANEOUS PROVISIONS.

- A. ASSIGNMENTS. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this Contract shall continue to be in full force and effect.
- B. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.
- C. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.
- D. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.

Dated: 2/29/16

CITY OF SPOKANE

By: Pat Dalton
Title: Asst City Atty

Attest:

Len Heston
City Clerk

Approved as to form:

[Signature]
Assistant City Attorney

Dated: February 29, 2016

KUTAK ROCK, LLP
E-Mail address:

Dennis.Hession@kutakrock.com



By: [Signature]
Name: Roy J. Koegen
Title: Partner

General Terms and Conditions for Outside Counsel

I. SCOPE OF REPRESENTATION

A. Conflicts of Interest.

The Firm or attorney who is selected to represent the City must disclose any actual or potential conflicts of interest, and will be prohibited from engaging in or carrying on, any legal work on behalf of any client that is directly adverse to the City or its interests, without the specific written consent and waiver of the Office of the City Attorney. Waivers will be evaluated on a case-by-case basis. The Firm or attorney engaged to represent the City shall have a continuing duty to disclose such information. The Office of the City Attorney will NOT sign "blanket" waivers.

B. Confidential Information.

All confidential communications between the City, its officers, employees or agents, and the Firm, whether oral or written, and all documentation whether prepared by the Firm or the City shall be considered privileged and shall not be disclosed, except by the written consent of the City Attorney.

C. Subcontracting.

No portion of the work will be subcontracted without prior written approval of the Office of the City Attorney.

D. Advertising.

The name of the City shall not be included in any promotional or advertising materials by the Firm without the prior written approval of the City Attorney's Office.

II. BILLING PROCEDURES

A. Billing Procedures.

1. Billings by the Firm shall be submitted on a monthly basis.

2. Unless otherwise agreed upon in advance in writing, the City will be charged for services rendered on an hourly basis and billings will be reflected in increments of one-tenth of an hour.

3. Each billing statement shall be set forth for each date services were performed:

- A brief summary of the services provided;
- The number of hours, or fractions of hours spent by each provider; and
- The hourly rates of each provider.

4. Expenses and disbursements shall be shown in detail:

- Air travel shall be approved by the City in advance and is reimbursable at coach rates;
 - The City must NOT be charged for courier service or other expedited mail delivery, unless the urgency was caused by the City or the City requests the service; and
 - Billings for experts or consultants retained by the Firm shall be provided in a substantially similar format as outlined above.
5. Any changes in outside counsel's fee schedule shall be discussed with the City Attorney prior to implementation.
 6. The Firm has been retained because of its expertise. The City shall not be billed for basic general legal or technical research necessary to educate staff or less experienced attorneys in the Firm without advanced City approval.
 7. The City shall not be billed for any time spent in preparing or reviewing the Firm's billings to the City or for internal quality control procedures.
 8. Unless approved in advance, the City will NOT reimburse for time spent by more than one (1) attorney attending meetings, witness interviews, depositions, hearings and the like.

B. Payment.

The Firm shall send its applications for payment to the Risk Management Department, Fourth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of the Firm's invoice, except as provided by state law.

C. Audit.

The Firm shall keep adequate and accurate records supporting all amounts invoiced to the City, and must maintain the records for at least six (6) years following completion of any work. The Firm shall allow authorized City representatives to review and audit all records related to services provided under any contract with the City.

FEE SCHEDULE

HOURLY RATES

Dennis P. Hession	\$300.00
Paul S. Gerding, Jr.	\$300.00
Adam R. Baird	\$195.00
Debbi Haskins, Paralegal	\$125.00

CITY SHALL PAY FOR:

Reimbursing Costs

Litigation Expenses

Disbursements and Out-Of-Pocket Expenses

Computerized Legal Research

Court Reporter Appearance Fees

Deposition (Transcription and/or Video) Fees

Fees for Retrieval of Records

Mediation or Arbitration Fees

Court Costs and Filing Fees

Payments to Outside Investigators

Expert Witnesses and/or Expert Consultants

Court Transcripts

Demonstrative Aids

Witness Fees

Mileage (See General Conditions)

All Other Items for which the Firm may advance or incur costs
for the City's benefit