

Alaska State Legislature

Select Committee on Legislative Ethics

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Anchorage, AK 99501
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P.O. Box 90251
Anchorage, AK
99509 - 0251

Ethics Committee Meeting HOUSE SUBCOMMITTEE

April 21, 2018, 12:30 p.m.
Anchorage LIO Large Conference Room

(Meeting will be teleconferenced
Anchorage Only: 563-9085
Juneau Only: 586-9085
Outside Anchorage or Juneau: 1-844-586-9085)

1. CALL THE MEETING TO ORDER
2. APPROVAL OF THE AGENDA
3. PUBLIC COMMENT
4. RATIFICATION OF CONTRACTS RELATED TO COMPLAINT 17-03
5. Motion to go into **EXECUTIVE SESSION** *to discuss matters which by law must remain confidential under AS 24.60.160, Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matters, the immediate knowledge of would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.*
6. EXECUTIVE SESSION
7. PUBLIC SESSION
8. OTHER BUSINESS
9. ADJOURN

PROFESSIONAL SERVICES CONTRACT BETWEEN
SELECT COMMITTEE ON LEGISLATIVE ETHICS
AND

NANCY J. NOLAN
DBA NANCY J. NOLAN RESOLUTION SERVICES
PO BOX 90154
ANCHORAGE, AK 99509-0154

CONTRACT AMOUNT: \$10,000
(Including reimbursement for expenses)

The parties to this contract, made and entered into the date the Legislative Affairs Agency Executive Director or her designee signs the contract, are the Select Committee on Legislative Ethics, whose address is PO Box 90251, Anchorage, AK 99509-0251, hereinafter referred to as the "Committee", and NANCY J. NOLAN RESOLUTION SERVICES whose address is PO BOX 90154, ANCHORAGE, AK 99509-0154, hereinafter referred to as the "Attorney".

THE PURPOSE OF THIS CONTRACT IS TO PROVIDE legal services to the Select Committee on Legislative Ethics.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF SCOPE OF WORK

Attorney shall act as a hearing officer in a specific matter, presiding as the adjudicator of the issues, and will render written Findings and a written Decision in the matter.

The Attorney shall provide the Committee with other legal services as requested by the Committee. The Attorney, including, but not limited to, Attorney's officers, agents, employees, and contractors shall maintain strict confidentiality of all records, files, work product, complaints, actions, advice, and materials related to the Committee or to the work performed under this contract unless and until directed otherwise by the Committee Chair ("Chair").

CLAUSE II - PERIOD AND DATES OF PERFORMANCE

- (A) The work under this contract shall begin March 28, 2018 and terminate December 31, 2018.
- (B) Upon delivery of written notice to the Attorney, this contract may, without liability of the Committee, be terminated by the Chair with or without cause. To terminate, the Chair shall provide notice by e-mail or delivery of a hard copy to the Attorney, whichever method is selected in the sole discretion of the Committee. If this contract is so terminated and the termination is not based on a breach by the Attorney, the Committee shall compensate the Attorney for services provided under the terms of this contract up to the date the termination notice is delivered, provided the Attorney provides the Committee with a

statement in writing containing a description of the services provided prior to contract termination, detailed time records for the services provided prior to contract termination that include that items required for time records by Clause XIII (Records; Audit), and a copy of all documents, reports, material, and other items required to be delivered to the Committee by Clause XIV (Ownership and Reuse of Documents) of this contract.

CLAUSE III – COMPENSATION AND METHOD OF PAYMENT

- (A) The Attorney shall perform the work specified by this contract at the rate of \$250.00 per hour.
- (B) Payment shall be based on billings provided by the Attorney that include the items required for time records by Clause XIII (Records; Audit).
- (C) The Chair must approve a billing before it may be paid.
- (D) If a payment is not made within 90 days after the Committee has received a billing that satisfies the requirements for billing under this contract, the Committee shall pay interest on the unpaid balance of the billing at the rate of 1.5 percent per month from, and including, the 91st day through the date payment is made. A payment is considered made on the date it is mailed or personally delivered to the Attorney.
- (E) The Committee shall reimburse the Attorney for reasonable expenses that are incurred by the Attorney in the performance of this contract and that are approved for reimbursement by the Chair.
- (F) With regard to travel expenses, if the Chair requires the Attorney to travel outside of the Attorney's home base of Anchorage, the Attorney will be reimbursed for reasonable travel expenses that are supported by receipts and that are pre-approved by the Chair.
- (G) Total payments under this contract, including reimbursement for expenses, may not exceed ten thousand and No/100 Dollars (\$10,000.00).

CLAUSE IV - EXPENSES AND DUPLICATION

- (A) Except as may be otherwise provided by Clause III (Compensation and Method of Payment), the office space, equipment, supplies, clerical support and other expenses that are necessary for the Attorney to carry out the Attorney's obligations under this contract shall be supplied and paid for by the Attorney at no cost to the Committee.
- (B) Duplicates of any material or other item produced under this contract may be produced by the Committee; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Committee.

CLAUSE V – ASSIGNMENT OR TRANSFER

Assignment or transfer of the contract is subject to the approval of the Chair.

CLAUSE VI – WORKERS' COMPENSATION

At the time this contract is executed, the Attorney is a sole proprietor and does not employ any employees. If the Attorney hires one or more employees, the Attorney shall, in accordance with AS 23.30.045(d), provide and maintain workers' compensation insurance. Upon request, the Attorney shall provide the Committee with written proof of the coverage required by this clause.

CLAUSE VII – FEDERAL AND STATE LAWS

In addition to the other requirements of this contract, the Attorney must comply with all applicable Federal and State labor, wage/hour, safety and other laws which have a bearing on the contract, and must have all licenses and permits required by the Federal government, State and/or municipality for performance of the contract covered by this contract, including, but not limited to, a valid Alaska business license and any necessary applicable professional licenses. The Attorney must pay all fees associated with the licenses and permits required for performance of the contract. The Attorney shall pay all Federal, State, and local taxes incurred by the Attorney in the performance of the contract. The Attorney's certification that taxes have been paid may be verified before final payment by the Committee.

CLAUSE VIII – HUMAN TRAFFICKING

By the Consultant's signature on this contract, the Consultant certifies that the Consultant is not headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report. In addition, if the Consultant conducts business in, but is not headquartered in, a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in the Persons Report, a certified copy of the Consultant's policy against human trafficking must be submitted to the Committee.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/rls/tiprpt>.

If the Consultant is or becomes headquartered in a Tier 3 county, or fails to comply with this clause ("Human Trafficking"), the Committee may terminate the contract under Clause II (B) as a breach of the contract.

CLAUSE IX – VENUE

In the event that the parties to the contract find it necessary to litigate the terms of the contract, venue shall be State of Alaska, First Judicial District, at Juneau, and the contract shall be interpreted according to the laws of Alaska.

CLAUSE X – BINDING ON SUCCESSORS

Subject to Clause V (Assignment or Transfer) of this contract, this contract and all the covenants, provisions, and conditions contained in the contract shall inure to the benefit of and be binding upon the successors and assigns of the Attorney and the Committee.

CLAUSE XI – INDEMNIFICATION

The Attorney shall indemnify, save harmless, and defend the Committee, and the Committee's officers, agents, and employees from liability for any claim, including, but not limited to, any damages, costs, and attorney fees arising from the claim, arising from Attorney's negligence or intentional misconduct in the performance of Attorney's obligations under this contract.

CLAUSE XII – ETHICAL CONSIDERATIONS

- (A) The Attorney, including, but not limited to, its employees, is subject to the prohibitions set out in AS 24.60.134 of the Ethics Code unless individuals are excluded under AS 24.60.134 (c). The Attorney is subject to the other provisions of AS 24.60 as indicated by AS 24.60.112.
- (B) Only the lawyers who are personally involved in representing the Committee on behalf of the Attorney and any staff of the Attorney who are assisting such lawyers shall have access to the records and documents related to the subject matter of this contract. The Attorney shall ensure that no one else in the firm has access to the records and documents by retaining the records and documents in a locked file cabinet conspicuously marked as confidential materials relating to this contract.

CLAUSE XIII – RECORDS; AUDIT

In addition to any other records required by this contract, the Attorney shall accurately maintain detailed time records that state the date of the work, break down the time in quarters of an hour, describe in detail the work done during the quarter of an hour, and identify which individual did the work. The Attorney shall also keep any other records that are required by the Chair. The records required by this contract are subject to inspection by the Committee or the Chair at all reasonable times.

CLAUSE XIV – OWNERSHIP AND REUSE OF DOCUMENTS

All documents, reports, material, and other items generated as a consequence of work done under this contract are the property of the Committee. To the extent the Attorney has any interest in the copyright for these items under the copyright laws of the United States, the Attorney transfers by this contract any and all interest the Attorney has in the copyright for these items to the Committee, and the Committee will be the owner of the copyright for these items. Upon completion of the work or termination of this contract, the items shall be delivered to the Chair.

CLAUSE XV – CHAIR AND LEAD LAWYER

- (A) The Chair shall serve as the primary contact through which the Committee assigns

and directs the work of the Attorney. The Chair has the authority, upon which the Attorney may rely without further inquiry, to act on behalf of the Committee in assigning and directing the work of the Attorney.

- (B) Nancy J. Nolan, the lead lawyer on this matter, shall have the primary relationship with the Committee. Unless otherwise agreed to or directed by the Committee, Nancy J. Nolan shall be the only lawyer who communicates directly with the Committee.

CLAUSE XVI – AUTHORIZATION; CERTIFICATION

Execution of this contract was authorized by the Chair of the Select Committee on Legislative Ethics on March 28, 2018.

Execution of this contract by the Legislative Affairs Agency Executive Director or her designee hereby constitutes a certification that funds are available in an appropriation to pay for work performed under this contract through June 30, 2018. Availability of funds to pay for work performed from July 1, 2018 through December 31, 2018 is contingent upon appropriation of funds for the next fiscal year. If, in the judgment of the certifying authority for this contract, sufficient funds are not appropriated for the appropriate fiscal year, the contract will be terminated by the Committee under Clause II (B) or amended.”

CLAUSE XVII - MODIFICATION AND PREVIOUS AGREEMENTS

This contract contains all terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind either of the parties to this contract. This contract may not be modified unless in writing and signed by the parties to this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below:

CONSULTANT:

NANCY J. NOLAN
DBA NANCY J NOLAN
RESOLUTION SERVICES

Nancy J. Nolan Date
Sole Proprietor
Tax Identification No.: xxx-xx-xxxx
Alaska Business License: 1003892

CERTIFYING AUTHORITY:


Jessica Geary Date
Executive Director
Legislative Affairs Agency

COMMITTEE:

SELECT COMMITTEE ON
LEGISLATIVE ETHICS

Dennis “Skip” Cook, Chair Date
Select Committee on Legislative Ethics
Procurement Officer

APPROVED AS TO FORM:

 4-9-18

Legal Counsel Date

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 2018, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared NANCY J. NOLAN, known to me and to me known to be the individual named in and who executed the above contract on behalf of NANCY J. NOLAN RESOLUTION SERVICES, and who acknowledged to me that he/she executed the contract as the free and voluntary act and deed of his/her principal for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day, month and year first above written.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 2018, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared DENNIS COOK, known to me and to me known to be the individual named in and who executed the above contract as the CHAIR OF SELECT COMMITTEE ON LEGISLATIVE ETHICS, and he/she acknowledged to me that he/she executed the contract as the free and voluntary act and deed of his/her principal for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day, month and year first above written.

Notary Public in and for Alaska
My commission expires: _____

PROFESSIONAL SERVICES CONTRACT BETWEEN
SELECT COMMITTEE ON LEGISLATIVE ETHICS
AND

INGALDSON FITZGERALD, P.C.
813 WEST THIRD AVENUE
ANCHORAGE, AK 99501

CONTRACT AMOUNT: \$10,000
(including reimbursement for expenses)

The parties to this contract, made and entered into the date the Legislative Affairs Agency Executive Director or her designee signs the contract, are the Select Committee on Legislative Ethics, whose address is PO Box 90251, Anchorage, AK 99509-0251, hereinafter referred to as the "Committee", and INGALDSON FITZGERALD, P.C., a professional corporation, whose address is 813 WEST THIRD AVENUE, ANCHORAGE, AK 99501, hereinafter referred to as the "Attorney".

THE PURPOSE OF THIS CONTRACT IS TO PROVIDE legal services to the Select Committee on Legislative Ethics.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF SCOPE OF WORK

The Attorney shall represent the Committee, and provide prosecution services in a specific matter. The Attorney will prepare for and present the Committee's case at the hearing. Work prior to hearing will include review of applicable statutes and rules, preparing and serving Notice of Hearing, interviewing Committee witnesses and studying documents upon which the Committee relied in reaching its findings, and participating in a pre-hearing discovery and conferences as needed. At the hearing the Attorney will present the Committee's evidence, cross-examine witnesses, make appropriate opening and closing statements, and make objections to evidence or arguments as appropriate.

The Attorney shall provide the Committee with other legal services as requested by the Committee, related to the specific matter covered in this contract. The Attorney, including, but not limited to, Attorney's officers, agents, employees, and contractors shall maintain strict confidentiality of all records, files, work product, complaints, actions, advice, and materials related to the Committee or to the work performed under this contract unless and until directed otherwise by the Committee Chair ("Chair").

CLAUSE II - PERIOD AND DATES OF PERFORMANCE

- (A) The work under this contract shall begin March 27, 2018 and terminate December 31, 2018.
- (B) Upon delivery of written notice to the Attorney, this contract may, without liability to the Committee, be terminated by the Chair with or without cause. To

terminate, the Chair shall provide notice by e-mail or delivery of a hard copy to the Attorney, whichever method is selected in the sole discretion of the Committee. If this contract is so terminated and the termination is not based on a breach by the Attorney, the Committee shall compensate the Attorney for services provided under the terms of this contract up to the date the termination notice is delivered, provided the Attorney provides the Committee with a statement in writing containing a description of the services provided prior to contract termination, detailed time records for the services provided prior to contract termination that include that items required for time records by Clause XIII (Records; Audit), and a copy of all documents, reports, material, and other items required to be delivered to the Committee by Clause XIV (Ownership and Reuse of Documents) of this contract.

CLAUSE III – COMPENSATION AND METHOD OF PAYMENT

- (A) The Attorney shall perform the work specified by this contract at the rate of \$225.00 per hour. Paralegal services may be performed at a maximum rate of \$110.00 per hour.
- (B) Payment shall be based on billings provided by the Attorney that include the items required for time records by Clause XIII (Records; Audit).
- (C) The Chair must approve a billing before it may be paid.
- (D) If a payment is not made within 90 days after the Committee has received a billing that satisfies the requirements for billing under this contract, the Committee shall pay interest on the unpaid balance of the billing at the rate of 1.5 percent per month from, and including, the 91st day through the date payment is made. A payment is considered made on the date it is mailed or personally delivered to the Attorney.
- (E) The Committee shall reimburse the Attorney for reasonable expenses that are incurred by the Attorney in the performance of this contract and that are approved for reimbursement by the Chair.
- (F) With regard to travel expenses, if the Chair requires the Attorney to travel outside of the Attorney's home base of the Anchorage, the Attorney will be reimbursed for reasonable travel expenses that are supported by receipts and that are pre-approved by the Chair.
- (G) Total payments under this contract, including reimbursement for expenses, may not exceed ten thousand and No/100 Dollars (\$10,000.00).

CLAUSE IV - EXPENSES AND DUPLICATION

- (A) Except as may be otherwise provided by Clause III (Compensation and Method of Payment), the office space, equipment, supplies, clerical support and other expenses that are necessary for the Attorney to carry out the Attorney's obligations under this contract shall be supplied and paid for by the Attorney at no cost to the Committee.

- (B) Duplicates of any material or other item produced under this contract may be produced by the Committee; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Committee.

CLAUSE V – ASSIGNMENT OR TRANSFER

Assignment or transfer of the contract is subject to the approval of the Chair.

CLAUSE VI – WORKERS' COMPENSATION

During the life of this contract, the Attorney shall, in accordance with AS 23.30.045(d), provide and maintain workers' compensation insurance. The Attorney shall require any subcontractor to provide and maintain workers' compensation insurance for the subcontractor's employees. Attorney shall provide the Committee, upon request, with written proof of the coverage required by this clause.

CLAUSE VII – FEDERAL AND STATE LAWS

In addition to the other requirements of this contract, the Attorney must comply with all applicable Federal and State labor, wage/hour, safety and other laws which have a bearing on the contract, and must have all licenses and permits required by the Federal government, State, and municipality for performance of the contract covered by this contract, including, but not limited to, a valid Alaska business license and any necessary applicable professional licenses. The Attorney must pay all fees associated with the licenses and permits required for performance of the contract. The Attorney shall pay all Federal, State, and local taxes incurred by the Attorney in the performance of the contract. The Attorney's certification that taxes have been paid may be verified before final payment by the Committee.

CLAUSE VIII – HUMAN TRAFFICKING

By the Consultant's signature on this contract, the Consultant certifies that the Consultant is not headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report. In addition, if the Consultant conducts business in, but is not headquartered in, a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, a certified copy of the Consultant's policy against human trafficking must be submitted to the Committee.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/rls/tiprpt>.

If the Consultant is or becomes headquartered in a Tier 3 county, or fails to comply with this Clause VIII ("Human Trafficking"), the Committee may terminate the contract under Clause II (B) as a breach of the contract.

CLAUSE IX – VENUE

In the event that the parties to the contract find it necessary to litigate the terms of the contract, venue shall be State of Alaska, First Judicial District, at Juneau, and the contract shall be interpreted according to the laws of Alaska.

CLAUSE X – BINDING ON SUCCESSORS

Subject to Clause V (Assignment or Transfer) of this contract, this contract and all the covenants, provisions and conditions contained in the contract shall inure to the benefit of and be binding upon the successors and assigns of the Attorney and the Committee.

CLAUSE XI – INDEMNIFICATION

The Attorney shall indemnify, save harmless, and defend the Committee, and the Committee's officers, agents, and employees from liability for any claim, including, but not limited to, any damages, costs, and attorney fees arising from the claim, arising from Attorney's negligence or intentional misconduct in the performance of Attorney's obligations under this contract.

CLAUSE XII – ETHICAL CONSIDERATIONS

- (A) The Attorney, including, but not limited to, its employees, is subject to the prohibitions set out in AS 24.60.134 of the Ethics Code unless individuals are excluded under AS 24.60.134 (c). The Attorney is subject to the other provisions of AS 24.60 as indicated by AS 24.60.112.
- (B) Only the lawyers who are personally involved in representing the Committee on behalf of the Attorney and any staff of the Attorney who are assisting such lawyers shall have access to the records and documents related to the subject matter of this contract. The Attorney shall ensure that no one else in the firm has access to the records and documents by retaining the records and documents in a locked file cabinet conspicuously marked as confidential materials relating to this contract.

CLAUSE XIII – RECORDS; AUDIT

In addition to any other records required by this contract, the Attorney shall accurately maintain detailed time records that state the date of the work, break down the time in tenths of an hour, describe in detail the work done during the tenth of an hour, and identify which individual did the work. The Attorney shall also keep any other records that are required by the Chair. The records required by this contract are subject to inspection by the Committee or the Chair at all reasonable times.

CLAUSE XIV – OWNERSHIP AND REUSE OF DOCUMENTS

All documents, reports, material, and other items generated as a consequence of work done under this contract are the property of the Committee. To the extent the Attorney has any interest in the copyright for these items under the copyright laws of the United States, the Attorney transfers by this contract any and all interest the Attorney has in the copyright for these items to the Committee, and the Committee will be the owner of

the copyright for these items. Upon completion of the work or termination of this contract, the items shall be delivered to the Chair.

CLAUSE XV – CHAIR AND LEAD LAWYER

- (A) The Chair shall serve as the primary contact through which the Committee assigns and directs the work of the Attorney. The Chair has the authority, upon which the Attorney may rely without further inquiry, to act on behalf of the Committee in assigning and directing the work of the Attorney.
- (B) Kevin Fitzgerald, the lead lawyer on this matter, shall have the primary relationship with the Committee. Unless otherwise agreed to or directed by the Committee, Kevin Fitzgerald shall be the lawyer who communicates directly with the Committee.

CLAUSE XVI – AUTHORIZATION; CERTIFICATION

Execution of this contract was authorized by the Chair of the Select Committee on Legislative Ethics on March 28, 2018.

Execution of this contract by the Legislative Affairs Agency Executive Director or her designee hereby constitutes a certification that funds are available in an appropriation to pay for work performed under this contract through June 30, 2018. Availability of funds to pay for work performed from July 1, 2018 through December 31, 2018 is contingent upon the appropriation of funds for the next fiscal year. If, in the judgement of the certifying authority for this contract, sufficient funds are not appropriated for the appropriate fiscal year, the contract will be terminated under Clause II (B) or amended.

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CLAUSE XVII - MODIFICATION AND PREVIOUS AGREEMENTS

This contract contains all terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind either of the parties to this contract. This contract may not be modified unless in writing and signed by the parties to this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below:

ATTORNEY:

INGALDSON FITZGERALD, P.C.
A Professional Corporation

Kevin Fitzgerald
President
Tax Identification No.: 92-0149856
Alaska Business License: 979320

COMMITTEE:

SELECT COMMITTEE ON
LEGISLATIVE ETHICS

Dennis "Skip" Cook, Chair Date
Select Committee on Legislative Ethics
Procurement Officer

CERTIFYING AUTHORITY:

Jessica Geary Date _____
Executive Director
Legislative Affairs Agency

APPROVED AS TO FORM:

Legal Counsel 4/11/10
Date