

Council Action: Approved: <input checked="" type="checkbox"/> Denied: <input type="checkbox"/>
Date of Action: <u>4/23/18</u>
Verified by: <u>[Signature]</u>

CITY COUNCIL ACTION MEMORANDUM

AM No. 18-09: Awarding A One (1) Year Contract To Landye Bennett Blumstein LLP For General Legal Counsel Services Beginning August 1, 2018 Through July 31, 2019.

Originator: April Dwyer, Purchasing
 Date: 4/9/2018

Agenda of: 4/23/2018

Route to:	Department Head	Signature	Date
X	Chief of Police	<u>[Signature]</u>	4/11/18
X	Public Works Director	<u>[Signature]</u>	4/11/18
X	Recreation Services Director	<u>[Signature]</u>	4/11/18
X	Finance Director	<u>[Signature]</u>	4-11-18
X	Deputy Administrator	<u>[Signature]</u>	4/13/18
X	City Clerk	<u>[Signature]</u>	4/12/18

Reviewed by Mayor Bert L. Cottle: [Signature] 4/10/2018

Fiscal Impact: yes or no Funds Available: yes or no

Account name/number/amount: Funding listed below is dedicated for the contract of general legal counsel and outside legal services should the need arise. ***Note: Amounts represent FY2019 Proposed Budget and are contingent upon passage of the FY2019 Budget.

	Legal Services	Proposed Budget
Clerks Office	001-4110-411.30-32	12,975
Records Management	001-4112-411.30-32	2,250
Council	001-4115-411.30-32	33,750
Administration	001-4130-413.30-32	4,500
Human Resources	001-4136-414.30-32	4,500
Planning	001-4138-414.30-32	18,000
Finance	001-4150-415.30-32	5,000
Public Safety Admin	001-4210-420.30-32	11,250
Dispatch Center	001-4240-420.30-32	7,200
PW Admin	001-4310-431.30-32	2,250
Public Works Meta Rose	001-4332-433.30-32	2,250
Library	001-4550-455.30-32	1,125
CDMMSC	340-4530-453.30-32	2,250
Total:		107,300

Attachments: Contract for General Legal Counsel Services (7 pages)

Summary Statement: On March 3, 2015, the City of Wasilla issued a Request for Proposal (RFP) for General Legal Counsel Services. Landye Bennett Blumstein LLP was awarded the initial three (3) year contract beginning August 1, 2015 through July 31, 2018 with two (2) optional one (1) year extensions.

Wasilla City Council and Landye Bennett Blumstein LLP have elected to exercise the first extension beginning August 1, 2018 through July 31, 2019 with no changes to the current contract terms or rates.

Staff Recommendation: Adopt AM No. 18-09 by awarding a one (1) year contract to Landye Bennett Blumstein LLP for general legal counsel services beginning August 1, 2018 through July 31, 2019.

CONTRACT FOR GENERAL LEGAL COUNSEL SERVICES

Between

**City of Wasilla
290 E. Herning Avenue
Wasilla, AK 99654**

And

**Landye Bennett Blumstein, LLP
701 W 8th Avenue, Suite 1200
Anchorage, AK 99501**

WHEREAS, WMC 5.08.030 authorizes the mayor or the mayor's designee to engage, subject to the approval of the City Council, services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor are both necessary and in the best interests of the City of Wasilla;
NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Wasilla City Council.
2. **DEFINITIONS.** "City" means the City of Wasilla and any city agency identified herein. "Independent Contractor" means a person or entity that performs services and/or provides goods for the City under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
3. **CONTRACT TERM.** This Contract shall be effective from August 1, 2018 through July 31, 2019 unless sooner terminated by either party as specified in paragraph (10). This Contract may be extended for one (1) additional year, upon the written agreement of both parties within two months prior to the expiration date of the contract.
4. **NOTICE.** Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or email with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.
5. **SCOPE OF SERVICES.** The firm shall represent the City as attorney in civil and criminal proceedings affecting the City; however, the City Council may hire independent counsel when in its judgment independent counsel is needed. The firm will represent the City in litigation involving prosecution of municipal code violation when needed. Firms must be qualified to represent the City in all State of Alaska Courts, U.S. District Court, and before the Ninth Circuit Court of Appeals.
 - a. The Firm must work effectively with the city council, administration, board and commissions, and also with other public agencies with which the City has legal relations.
 - b. The Firm must provide toll-free telephone access to the City.
6. **INCORPORATED DOCUMENTS.** The parties agree to the scope of work as summarized in section 5 of this contract, and further detailed in the incorporated documents. This Contract incorporates the following attachments in descending order of constructive precedence; a Contractor's Attachment shall not contradict or supersede any City specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract:
 - ATTACHMENT A: City Request for Proposal 0303-0-2015/AD General Legal Counsel Services
 - ATTACHMENT B: City of Wasilla City Council Action Memorandum #15-20 & 18-09.
 - ATTACHMENT C: Landye Bennett Blumstein, LLP Technical and Cost Proposal dated 4/1/15.
7. **CONSIDERATION.** The parties agree that Landye Bennett Blumstein, LLP (LBB) will provide the services specified in paragraph five (5) in accordance to the Scope of Work specified in RFP 0303-0-2015/AD with the associated cost(s) submitted under page nine (9) of LBB's Sealed Cost Statement.
 - a. The firm shall submit itemized monthly billings to the City Clerk for payment of all fees and costs for which the firm seeks reimbursement. Said monthly billings shall identify the subject of the work performed and the time, to the nearest one-tenth of an hour, spent on each subject. Costs shall be itemized and described separately on each monthly invoice.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
9. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract and recognize that the City is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the City no later than July 15 of the same year. A billing submitted after July 15, which forces the City to process the billing as a stale claim, will subject the Contractor to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to the City of processing the billing as a stale claim and that this amount will be deducted from the payment due to the Contractor.
10. RECORDS & AUDIT.
- a. Books and Records. Contractor agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the City or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by a City audit representative or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.
 - c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained in accordance with the City of Wasilla records retention schedule. The retention period begins from the report release date. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
 - d. Inspection of Records. The firm shall at any time during normal business hours and as often as the mayor or city council may deem necessary, make available to the City for examination all records with respect to all matters covered by this contract for a period ending three years after the date the firm is to complete performance. Upon request, and within a reasonable time, the firm shall submit such other information and reports relating to its activities under this contract to the City in such a form and at such times as the city council may reasonably require. The firm shall permit the city council or their designee to audit, examine, and make copies of such records, and to make audits of all research, materials, pleadings, records of personnel and other data relating to all matters covered by this contract. The City may, at its option, permit the firm to submit its records to the City in lieu of the retention requirement of this section.
 - e. Ownership; Publication, Reproduction and Use of Material. The firm agrees to discuss matters and reveal documents relating to this contract only with the City Council and Mayor, City Clerk, or any person authorized by the aforementioned, and as required by court order.
 - i. Except as otherwise provided herein, all data, documents, work product, research, reports, and materials produced by the firm under this contract shall be the property of the City, which shall retain exclusive right to publish, disclose, distribute, copy, and otherwise use, in whole or in part, any such data, documents, research, reports, or other materials.
11. CONTRACT TERMINATION.
- a. City Termination for Non-appropriation. The continuation of this Contract beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the City Council, State Legislature and/or federal sources. The City may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from City, State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
 - b. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:
 - i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
 - ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
 - iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

- iv. If the City materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
 - v. If it is found by the City that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City of Wasilla with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
 - vi. If it is found by the City that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.
- c. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
- d. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:
- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
 - ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
 - iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
 - iv. Contractor shall preserve, protect and promptly deliver into City possession all proprietary information in accordance with paragraph (20 and 22).
12. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include the current hourly rate for contract City attorneys. The City may set off consideration against any unpaid obligation of Contractor to any City agency.
13. LIMITED LIABILITY. The City will not waive and intends to assert available liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any City breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.
14. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
15. INDEMNIFICATION. Except for the sole negligence of the City of Wasilla and to the fullest extent permitted by law, the vendor or permitted user (vendor) shall defend, indemnify, and hold harmless the City of Wasilla (City) and any of the City's applicable subsidiaries, from any and all claims demands, losses, and liabilities to or by any third party, including, but not limited to costs, attorney's fees, expenses and claims for any damages, contributions, or indemnification arising from, resulting from, or connected with services or supplies provided by, or performed under this agreement by the vendor, it's agents, sub-vendors, suppliers, and employees, even though such claims may prove to be false, groundless, or fraudulent. The indemnification obligation under this agreement shall not be limited in any way by any restriction on the amount or type of damages, compensation, or benefits payable to or for any third party, or any employee under any worker's compensation act, disability benefit act, or other employee benefit act. Entitlement to recovery of costs, attorney fees and expenses under the indemnification obligation shall include all fees, costs, and expenses incurred in good faith by the City.
16. INDEPENDENT CONTRACTOR. Contractor is associated with the City only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the City whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party.

Contractor shall be solely responsible for, and the City shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the City; (4) participation or contributions by either Contractor or the City to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the City. Contractor shall indemnify and hold City harmless from, and defend City against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither; Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the City. The City and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such.

17. INSURANCE SCHEDULE. Unless expressly waived in writing by the City, Contractor, as an independent contractor and not an employee of the City, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The City shall have no liability except as specifically provided in the Contract. The Contractor shall not commence work before:

- a. Contractor has provided the required evidence of insurance to the Contracting Agency of the City, and
- b. The City has approved the certificate of insurance provided by the Contractor.
- c. Prior approval of the insurance certificate by the City shall be a condition precedent to any payment of consideration under this Contract and the City's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the City to timely approve shall not constitute a waiver of the condition.
- d. Insurance Coverage: The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by the City, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until the latter of:
 - i. Final acceptance by the City of the completion of this Contract; or
 - ii. Such time as the insurance is no longer required by the City under the terms of this Contract.
- e. Any insurance or self-insurance available to the City shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the City, Contractor shall provide the City with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the City and immediately replace such insurance or bond with an insurer meeting the requirements.
- f. *Workers' Compensation and Employer's Liability Insurance*
 - i. Statutory Requirements of the State of Alaska, and
 - ii. Employer Liability Insurance limits of:
 1. \$500,000.00 each accident.
 2. \$500,000.00 disease each employee.
 3. \$500,000.00 disease policy limit.
- g. *Professional Errors & Omissions Liability Insurance*
 - i. Minimum Limit required: \$1,000,000 per claim/\$1,000,000 aggregate
 - ii. Retroactive date: Prior to commencement of the performance of the contract
 - iii. Discovery period: Three (3) years after termination date of contract.
 - iv. A certified copy of this policy may be required.
- h. *Commercial General Liability Insurance: Form CG0001 04/13 or equivalent.*
 - i. Minimum Limits required:
 1. \$1,000,000.00 Combined Single Limit of Liability per Occurrence
 2. \$1,000,000.00 Personal/Advertising Injury Limit of Liability per Occurrence
 3. \$1,000,000.00 Participant Legal Liability (if any sports activities are conducted)
 4. \$2,000,000.00 Annual General Aggregate Limit of Liability
 5. \$2,000,000.00 Annual Products/Completed Operations Aggregate Limit of Liability
 6. \$100,000.00 Fire Damage Limit of Liability Any One Fire
 7. \$5,000.00 Medical Payment Limit Any One Person
- i. *Commercial Automobile Liability Insurance: Form CG0001 04/13 or equivalent.*
 - i. \$1,000,000.00 Combined Single Limit of Liability per Accident
 - ii. For all Owned, Hired, and Non-Owned Vehicles.
- j. *General Requirements:*

- i. Additional Insured: The general liability insurance policy shall contain evidence or be endorsed to include *the City of Wasilla, its officers and employees* as additional insureds for all liability arising from the Contract.
- ii. Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to additional insured.
- iii. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insured clause.
- iv. Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the City. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence.
- k. Policy Cancellation: If any of the insurance policies required above are canceled for any reason, the contractor shall provide immediate notice to the City of the cancellation and either provide: evidence of replacement or notice of reinstatement.

This evidence of replacement or notice of reinstatement shall be delivered to the City prior to the scheduled cancellation date. Failure of the contractor to comply with this provision shall terminate this agreement as non-compliant. Contractor agrees to vacate the location and premises occupied by this agreement and cease all operations prior to the scheduled cancellation date.

Immediate notice means that the contractor shall notify the City of Wasilla, Purchasing Department, in person or by certified mail within five calendar days of receipt of the cancellation notice from the insurance company, by the contractor. Mail to: City of Wasilla, Purchasing Department 290 E Herning Avenue Wasilla, AK 99654

- l. Approved Insurer: Each insurance policy shall be:
 - i. Issued by insurance companies authorized to do business in the State of Alaska or eligible surplus lines insurers acceptable to the City and having agents in Alaska upon whom service of process may be made, and
 - ii. Currently rated by A.M. Best as "A-VII" or better.
 - m. Evidence of Insurance: Prior to the start of any Work, Contractor must provide the following documents to the contracting City:
 - i. Certificate of Insurance: The Accord 25 Certificate of Insurance form or a form substantially similar must be submitted to the City to evidence the insurance policies and coverage required of Contractor.
 - n. Review and Approval: Documents specified above must be submitted for review and approval by the City prior to the commencement of work by Contractor. Neither approval by the City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the City or others, and shall be in addition to and not in lieu of any other remedy available to the City under this Contract or otherwise. The City reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.
 - o. **Mail all required insurance documents to the Contracting Agency identified on page one of the contract. Address the required insurance documents as ATTN: PURCHASING OFFICER.**
 - p. Compliance with legal obligations: Contractor shall procure and maintain for the duration of this Contract any city, borough, state or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The City may set-off against consideration due any delinquent government obligation.
18. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
 19. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
 20. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by City, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the City.
 21. CITY OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract),

or any other documents or drawings, first prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the City and all such materials shall be delivered into City possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the City. Notwithstanding the foregoing, the City shall have no proprietary interest in any materials licensed for use by the City that are subject to patent, trademark or copyright protection.

22. **PUBLIC RECORDS.** Pursuant to WMC 5.08.120(F), information or documents received from Contractor may be open to public inspection and copying. The City will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Section 9.18 of the RFP, provided that Contractor thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any document that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
23. **CONFIDENTIALITY.** Contractor shall keep confidential all City information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.
24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:
 - a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
 - b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.
 - c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
25. **LOBBYING** The parties agree, whether expressly prohibited by federal, State or local law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:
 - a. Any federal, state, county or local agency, legislature, commission, council or board;
 - b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official;
or
 - c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.
26. **WARRANTIES.** Contractor warrants that all work provided under this contract shall be performed in accordance with applicable professional standards and the specifications set forth in the contract and its incorporated documents.
27. **CONFLICT OF INTEREST.** The firm may not represent or assist private or public clients in connection with other claims, litigation, or other legal matters where such representation would constitute an actual conflict of interest. In particular, the firm shall comply with all relevant provisions of the Alaska Bar Rules and the Alaska Rules of Professional Conduct concerning the prohibition of conflicts of interest among clients. The firm shall not accept any employment and shall not render any professional services to other parties if such action might be inconsistent with the above-referenced standards unless the prior approval of the Mayor or City Council has first been obtained.
28. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the Mayor and/or City Council and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.
29. **GOVERNING LAW; JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Alaska. Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska, at Palmer.
30. **ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly

authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Mayor and/or City Council.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Matt Mead, Partner
Landye Bennett Blumstein, LLP

Date

APPROVED:

Bert L. Cottle, Mayor
City of Wasilla

Date