

**Minnesota Legislature  
Joint Committee to Investigate the Bridge Collapse**

**Contract For Legal Services**

**This Agreement**, made this 18th day of December, 2007, by and between the Joint Committee to Investigate the Bridge Collapse (“the Committee”) and GRAY PLANT MOOTY MOOTY & BENNETT, P.A., a Minnesota professional association. 500 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota, 55402, herein called the Firm,

**Witnesseth that, Whereas:** the Committee has duly solicited proposals to provide legal services to assist the Committee in preparing a report to the Legislature that identifies any weaknesses in the decision-making processes of the Minnesota Department of Transportation that may have contributed to the collapse of the Interstate 35W bridge over the Mississippi River in the City of Minneapolis on August 1, 2007, as more fully described in “Proposal for Investigation,” dated November 19, 2007; and the memorandum entitled “Content of Work by Outside Counsel,” dated November 19, 2007, copies of which are attached to and made a part of this contract; and

**Whereas**, the Firm has on the 30 day of November, 2007, submitted a signed proposal to perform services in consideration of the payment of the sums billed to the Committee for services rendered, in accordance with the rates set forth in the proposal, a copy of which proposal is attached to and made a part of this contract; and

**Whereas**, the Committee on December 7, 2007, notified the Firm that the Committee was seeking a shorter timeline for a report, before the end of the 2008 legislative session, with May 1, 2008, as a working date;

**Now, Therefore**, the Firm, in consideration of the payment of the compensation set forth in the proposal, subject to a maximum contract price (Total Cost) of \$500,000, agrees to furnish all services and documents required to provide the assistance in the most professional manner, to the satisfaction of the Committee within the times specified in the contract documents, all in accordance with the terms of this contract, Time is of the essence of this contract.

**1. Contract Documents**

The contract documents include the Proposal for Investigation, dated November 19, 2007; the memorandum entitled “Content of Work by Outside Counsel,” dated November 19, 2007; the Firm’s proposal, dated November 30, 2007; and this contract.

**2. Authorized Agent**

The Committee referred to in the contract documents is the Minnesota Legislature’s Joint Committee to Investigate the Bridge Collapse. In matters relating to the discharge of this contract, the authorized agent for the Committee is the Director of the Legislative Coordinating Commission or an agent designated by him.

### 3. Acceptance of Services

3.1 The authorized agent has final authority to accept the Firm's services, after consulting with the Senate and House chairs of the Committee.

3.2 All services to be provided by the Firm under this contract shall be performed to the satisfaction of the Committee, as determined in the sole discretion of its authorized agent and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Firm will not receive payment for work found by the Committee to be unsatisfactory or performed in violation of federal, state, or local law, ordinance, rule, or regulation.

3.3 If the services are accepted as satisfactory, the authorized agent shall so certify on each invoice submitted.

### 4. Payment

4.1 **Monthly Invoice.** The Firm will submit to the Committee each month an invoice for work performed the previous month, showing each individual and their hours worked, hourly rate, and amount due for services, and a list of direct expenses incurred.

4.2 **Monthly Payment.** Upon a determination by the Committee's authorized agent that the services have been performed to the satisfaction of the Committee, expected to occur no more than 30 days after the invoice was received by the agent, the Committee will pay the Firm 90 percent of the invoiced amount, up to the maximum contract price.

4.3 **Expense Reimbursement.** **The Firm will be** reimbursed for travel and subsistence **expenses in** the same manner and in no greater amount than provided in the LEGISLATIVE PLAN FOR EMPLOYEE BENEFITS, within the maximum contract price.

4.4 **Final Payment.** In accordance with Minnesota Statutes, section 3.225, subdivision 6. paragraph (b), upon completion of the work and submission of the final report, the Firm will submit to the Committee a final invoice and a request for payment of the ten percent held back, as well as any other sums then owing. The Committee will pay this final invoice, up to the maximum contract price, when the Senate and House chairs of the Committee have certified to the authorized agent that the Firm has satisfactorily fulfilled the terms of the contract,

### 5. Labor Laws

All contractors and subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances, and legal requirements affecting the work in this state.

### 6. Non-Discrimination

The Firm shall conform with and agree to the provisions of Minnesota Statutes, section 181.59, which prohibits discrimination in the hiring of labor by reason of race, creed, or color, which section is reproduced below:

**181.59 DISCRIMINATION ON ACCOUNT OF RACE, CREED, OR COLOR PROHIBITED IN CONTRACT.**

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

(1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

(2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;

(3) That a violation of this section is a misdemeanor; and

(4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

## **7. Workers' Compensation**

In accordance with Minnesota Statutes, section 176.182, the Firm must provide to the Committee acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, section 176.181, subdivision 2.

## **8. Affirmative Action**

**8.1** If the amount of the contract exceeds \$100,000 and the Firm has had more than 40 full-time employees within this state on a single working day on the previous 12 months, the Firm certifies that it has received a certificate of compliance from the Commissioner of Human Rights under Minnesota Statutes, section 363A.36.

**8.2** If the Firm is not subject to paragraph 8.1, but the amount of the contract exceeds \$100,000 and the Firm has had more than 40 fulltime employees on a single working day during the previous 12 months in the state where the Firm has its primary place of business, the Firm must certify either that it has received a certificate of compliance issued by the Commissioner of Human Rights under paragraph 8.1 or that it is in compliance with federal affirmative action requirements.

## **9. Tax Identification**

As required by Minnesota Statutes, section 270C.65, subdivision 3, the Firm must provide to the Committee either its federal taxpayer identification number or its Social Security number, and its Minnesota tax identification number (if applicable). This information may be used in the enforcement of federal and state tax laws. Supplying these numbers could result in action to require the Firm to file state tax returns and pay delinquent state tax liabilities. This contract will not be approved unless these numbers are provided. These numbers will be available to federal and state tax authorities and state personnel involved in approving the contract and the payment and audit of state obligations. These numbers will not be made available to any other person without the express written permission of the Firm.

## **10. Data Practices; Ownership of Documents**

**10.1** Although the Committee, unlike the Legislative Auditor, is not governed by the Government Data Practices Act, Minnesota Statutes, chapter 13, the Firm agrees to treat all data provided by the Committee in accordance with this agreement and all data created, gathered, generated, or acquired in accordance with this agreement, as if it were governed by chapter 13.

**10.2** Data gathered by the Firm in the course of this investigation will be classified and protected from disclosure as if it had been gathered by the Legislative Auditor and were governed by Minnesota Statutes, section 3,979.

**10.3** All work product and interim and final reports prepared by the Firm in the performance of its obligations under this agreement are the property of the Committee and must be remitted to the Committee upon completion or termination of this agreement.

The Firm must not use, willingly allow the use of, or cause to have the materials used for any purpose other than performance of its obligations under this agreement without the prior written consent of the Committee.

**10.4** The Firm agrees, upon request of the Committee, to execute all papers and perform all other acts reasonably necessary to assist the Committee to obtain and register intellectual property rights in the materials developed or acquired in the performance of this agreement. Where applicable, materials created by the Firm, or its employees individually or jointly with others, or any subcontract for the Committee in performance of this agreement shall be considered “works made for hire” as defined in the U.S. Copyright Act.

## **11. Termination**

**11.1 Termination for Default.** If the Firm fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the contract, the Committee may terminate the contract by written notice to the Firm. The notice must specify the acts or omissions relied on as cause for termination, The Committee will pay the Firm fair and equitable compensation for satisfactory performance before receipt of

the notice of termination, less the amount of damages caused by the Firm's breach. If the damages are more than the compensation payable to the Firm, the Firm will remain liable after termination and the Committee may affirmatively collect damages.

**11.2 Termination in the Interest of the Committee.** The performance of work, in whole or in part, under this contract may be terminated by the Committee whenever the Committee determines that termination is in the interest of the Committee. The Committee will pay all reasonable costs associated with this contract that the Firm has incurred up to the termination and all reasonable costs associated with termination of the contract. However, the Firm will not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

## **12. Indemnity**

The Firm agrees to indemnify and save and hold harmless the Committee and its agents and employees from any and all claims or causes of action arising from the performance of this contract by the Firm or by the Firm's agents or employees. This paragraph does not bar any legal remedies the Firm may have for the Committee's failure to fulfill its obligations under this contract,

## **13. Audits**

In accordance with Minnesota Statutes section 16C.05, subdivision 5, the books, records, documents, accounting procedures, and practices of the Firm relevant to this agreement are subject to examination by the Committee and the Legislative Auditor for a minimum of six years from the end of this agreement.

## **14. Applicable Law**

This contract will be interpreted under the law of the State of Minnesota. Any action relating to this contract must be instituted and prosecuted only in the state or federal district court in Ramsey County, Minnesota, and each party to the contract waives the right to change of venue.

## **15. Assignment**

The Firm may not assign, transfer, or subcontract any rights or obligations under this contract without the prior written consent of the Committee.

## **16. Amendments**

Any amendments to this agreement must be in a written agreement signed by both the Firm and the Committee.

**17. Signatures Required**

This contract becomes binding upon the Committee when signed by the Director of the Legislative Coordinating Commission and the Senate and House chairs of the Committee.

**In Witness Whereof**, the Committee and the Firm have caused this contract to be signed by their duly authorized officers.

**Joint Committee to Investigate Bridge Collapse**

**Firm**

By Margaret Anderson Kelliher  
Margaret Anderson Kelliher, Chair  
Legislative Coordinating Commission

Gray, Plant, Mooty, Mooty & Bennett, PA

Date: 12/19/2007

By Jamara Hill  
Title Managing Offices

By Greg Hubinger  
Greg Hubinger, Director  
Legislative Coordinating Commission

Date: Dec. 18, 2007

Date: 12/18/2007

Approved as to form and execution

By Steve Murphy  
Steve Murphy, Senate Chair  
Joint Committee to Investigate Bridge Collapse

By Patrick Whelan  
Senate Counsel

Date: 12-19-07

Date: Dec. 19, 2007

By Bernard Lieder  
Bernard Lieder, House Chair  
Joint Committee to Investigate Bridge Collapse

By William J. ...  
House Counsel

Date: 12/18/07

Date: Dec. 19, 2007

## Appendix

### LEGISLATIVE PLAN FOR EMPLOYEE BENEFITS

#### Expense Allowances

**General.** The appointing authority may authorize employee expenses for the effective conduct of the Legislature's business. Authorization must be granted prior to the incurring of the actual expenses. Employees affected under this Plan are reimbursed for expenses authorized by the appointing authority in accord with the terms of this Plan.

#### **Noncommercial Transportation Expenses.**

**Automobile.** When an employee is required to use the employee's personal automobile to conduct authorized state business, the appointing authority must reimburse the employee at the same rate per mile as the standard mileage rate for business use of an automobile as permitted by the IRS under the federal income tax as of the time of the business use of the automobile. Mileage will be calculated on the most direct route according to records used by and available from the appropriate appointing authority's accounting office. Deviations from the most direct route, such as vicinity driving or departure from the employee's residence, must be shown separately on the employee's daily expense record and reimbursed under the foregoing rate. Toll charges and parking fees actually paid shall be reimbursed. An employee may not be required by the appointing authority to carry automobile insurance coverage beyond that required by law.

When an employee does not report to the office during the day or makes business calls before and after reporting to the office, the allowable mileage is: (1) the lesser of the mileage from the employee's residence to the first stop or from the office to the first stop, (2) all mileage between points visited on state business during the day, and (3) the lesser of the mileage from the last stop to the employee's residence or from the last stop to the office.

**Van or Van-Type Vehicle.** Employees who use a specially equipped personal van or van type vehicle on official state business are reimbursed for mileage at a rate as permitted by the IRS under the federal income tax code plus \$.09 per mile on the most direct route. In order to qualify for this reimbursement rate, the vehicle must be equipped with a ramp, lift, or other level exchanging device designed to provide access for a wheelchair.

**Motorcycle.** Reimbursement for use of a motorcycle on official state business shall be at a rate of 15 cents per mile on the most direct route.

**Personal Aircraft.** The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state. Mileage reimbursement is at the rate of 99.5 cents per mile, or any greater or lesser amount authorized by the General Services Administration for employees, and is based on the shortest route based on direct air mileage between the point of departure and the destination.

**Commercial Transportation.** When an employee is required to use commercial transportation (air, taxi, rental car, etc.) in connection with authorized business of an appointing authority, the employee is reimbursed for the actual expenses of the mode and class of transportation so authorized. Reasonable gratuities may be included in commercial travel costs.

If an employee uses a personal automobile instead of commercial transportation, the employee is reimbursed either mileage, at the rates stated previously, or round trip air fare, whichever is less as determined by the appointing authority.

**Frequent Flyer Miles.** Airline frequent flyer miles or credits received from an airline as a result of air travel paid for by the appointing authority must not be used by the member or employee for personal travel but must be reported and turned over to the appointing authority, as required by Minn. Stat. § 15.435.

**Overnight Travel.** Employees in travel status who incur expenses for lodging are allowed actual reasonable costs of lodging and meals while away from their home station, up to the maximums stated below. Employees in travel status in excess of one week without returning home are allowed actual cost not to exceed \$16 per week for laundry and dry cleaning for each week after the first week. Employees in travel status may be reimbursed for personal telephone charges. The maximum reimbursement for personal telephone calls for each trip shall be the result of multiplying the number of nights away from home by \$3.

**Meal Allowances.** If the employee is on assignment away from the employee's home station in a travel status, the employee is reimbursed for actual costs of meals (up to the maximum reimbursement) including gratuity. Employees are also reimbursed for meals which are an integral part of conferences and meetings which have been approved in advance by the appointing authority and are consistent with the appointing authority's policies or practices on the payment of Special Expenses.

Maximum reimbursements for meals, including tax and gratuity, are:

	Breakfast	Lunch	Dinner
Within the state:	\$7.00	\$9.00	\$15.00
Outside the state:	\$8.00	\$10.00	\$17.00

Employees who are in travel status for two or more meals are reimbursed for the actual costs of the meals up to the combined maximum amount for the reimbursable meals,

Breakfast reimbursements may be claimed only if the employee is on assignment away from his/her home station in a travel status overnight or departs from home in an assigned travel status before 6:00 am. Dinner reimbursement may be claimed only if the employee is away from his/her home station in a travel status overnight or is required to remain in a travel status meal after 7:00 p.m.



**Special Expenses.** When prior approval has been granted by an appointing authority, special expenses, including registration or conference fees, individual annual professional membership dues and professional fees, and tuition for educational classes may be paid.

**Registration or conference fees** may be paid or reimbursed only if the conference or meeting is relevant to the employee's current job and attendance is state business.

**Professional membership dues** and professional fees may be paid only if they are directly related to the employee's current position,

**Educational expenses**, including fees and tuition, may be paid or reimbursed only if:

- (1) the course is related to maintaining or improving performance in current or anticipated job responsibilities of the employee; or
- (2) the education is required by the appointing authority, or applicable professional or licensing group, as a condition for retention of employment.

Educational expenses may not be paid or reimbursed if the education is necessary for the employee:

- (1) to meet the minimum educational requirement for the employee's current position; or
- (2) to qualify for a new job.

**Career Development.** The appointing authority may develop an education program for career development.

**Payment of Expenses.** No expenses (transportation, lodging, meals, or registration fees) may be paid in advance.