STATE OF SOUTH DAKOTA #11-2900-015
LEGAL SERVICES CONSULTING CONTRACT

AGREEMENT made and entered into this 1st day of July, 2010, by and between the Office of Attorney General 1302 E. Highway 14, Suite 1, Pierre South Dakota 57501-5070 (the "State") Robert Frieberg, P.O. Box 511, Beresford, South Dakota, 57004
(the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant under this Agreement will perform the following services: legal services in such matters as assigned by the Attorney General

2. The Consultant's services under this Agreement shall commence on July 1st, 2010 and end on June 30th, 2011 unless sooner terminated pursuant to the terms hereof.

3. The Consultant is not a State employee and will not use State equipment, supplies or facilities. The Consultant's will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement .

4. The agreed upon hourly rate for services performed under this Agreement is $65 per hour; not to exceed $1,000 per month or $12,000 per year. The State will pay Consultant' expenses as a separate item in an amount not to exceed $500. The TOTAL CONTRACT AMOUNT is an amount not to exceed $12,500 per year. Unless otherwise agreed to Consultant will submit monthly itemized invoices to the State. The State will make payment within 45 days of the receipt of Consultant's invoice consistent with SDCL ch. 5-26.

5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising from errors or omissions of the State, its officers, agents or employees or from the errors or omissions of third parties that are not officers, employees or agents of the Consultant, unless such errors or omissions resulted from the acts or omissions of the Consultant. Nothing in this contract is intended to impair the insurance coverage of Consultant or any subrogation rights of Consultant's insurers.

Frieberg 7.14.10
Auditor 7.9.10
Lynell 7.14.10

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

A. Commercial General Liability and Business Automobile Liability Insurance:
The Consultant shall maintain adequate commercial general liability and business automobile liability insurance or equivalent form.

B. Professional Liability Insurance:
The Consultant agrees to procure and maintain professional liability insurance with a limit not less than $1,000,000.

C. Worker's Compensation Insurance:
The Consultant shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota or applicable state law.

Before beginning work under this Agreement, Consultant shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. The Consultant agrees not to participate as Counsel, in person or by his law firm, in opposition to the interests of the State of South Dakota or any of its departments, bureaus, boards or commissions, consistent with the policy attached hereto labeled Exhibit A.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice, and may be terminated by the State for cause at any, with or without notice.

10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination

for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Marty J. Jackley, on behalf of the State, and by Robert Frieberg, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

16. In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

17. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

| STATE | CONSULTANT |
| --- | --- |
| BY: _____ | BY: _____ |
| Marty J. Jackley | Robert Frieberg |
| Attorney General | (TITLE) Pro Bo Counsel |
| (DATE)_____ | (DATE)_____ |

- Kay McLain (605) 773-3215 can provide additional information regarding this contract.

STATE OF SOUTH DAKOTA

**OFFICE OF ATTORNEY GENERAL**
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**MARTY J. JACKLEY**
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**
CHIEF DEPUTY ATTORNEY GENERAL

July 09, 2010

Richard Sattgast
State Auditor
500 East Capitol
Pierre, SD 57501

Re: Legal Service Contract – Robert Frieberg

Dear State Auditor Sattgast:

Attached herewith is a Legal Services Consulting Contract between the Office of Attorney General and Robert Frieberg dated July 1, 2010. This letter is to advise you that as a contract for professional legal services and is in an amount of less than $50,000.00 the RFP provisions set forth in SDCL 5-18-55 thru 62 are not applicable.

Very truly yours,

Judy Tobin

Judy Tobin
Accountant

JT/rar
Enclosures