

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is effective as of the 30th day of March, 2011, by and between Fox Rothschild LLP ("Fox"), and the Delaware Department of Transportation ("DelDOT") for the State of Delaware ("State"), with the approval of the Governor and the Attorney General.

WITNESSETH:

WHEREAS, on August 25, 2010, a Request for Proposal ("RFP") was issued by DelDOT to engage a law firm to act as Special Real Estate Counsel ("Special Real Estate Counsel") to represent, DelDOT's real estate section in matters relating to the processing of eminent domain actions for both DelDOT projects and those in accordance with 17 Del. C. Section 507, together with the settlements for those Section 507 acquisitions. Secondary responsibilities will be for those project property settlements which DelDOT's in house legal section delegates to Special Real Estate Counsel, and,

WHEREAS, it is the stated intent of DelDOT to engage (2) two law firms to represent DelDOT as Special Real Estate Counsel; and,

WHEREAS, DelDOT received and evaluated proposals from (4) four law firms interested in acting as Special Real Estate Counsel for the State and interviewed (3) three firms; and,

WHEREAS, DelDOT has determined to engage Fox to act as Special Real Estate Counsel, and wishes to enter into this Agreement with Fox because the proposal submitted by Fox was technically superior, and meets the needs of DelDOT. See Fox's Proposal dated September 15, 2010, attached hereto as Exhibit A.

NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Fox and DelDOT (collectively the "Parties") hereto agree as follows:

1. Pursuant to 29 Del. C. §2507, Fox is hereby appointed and employed as Special Real Estate Counsel for DelDOT.
2. Fox agrees to serve as Special Real Estate Counsel for DelDOT and perform such legal duties as assigned by the State for a period of ^{three (3)} five years and shall be eligible to commence providing legal services on April 1, 2011 and continue for three (3) years from this date unless earlier terminated. Extensions of this

Agreement for two (2) additional one (1) year periods may be made by mutual written agreement of the Parties. Notwithstanding the preceding, the Parties acknowledge that this Agreement is subject to termination at will by the State, with or without cause.

3. Fox agrees that it will assign members of its firm listed below to perform the legal services under this Agreement. Fox has discounted its standard billing rates for the its attorneys and paralegals as indicated below for its hourly rate work:

	Standard Rate	Discounted Rate
Gregory B. Williams, Partner	\$490	\$375
Sheldon K. Rennie, Partner	\$450	\$375
Michael J. Issacs, Partner	\$425	\$375
J. Breck Smith, Partner	\$380	\$325
Seth Niederman, Associate	\$310	\$275
Nicholas Kondraschow, Associate	\$290	\$275
Paralegal	\$190	\$115

*Notwithstanding the above stated rates, it is agreed that the maximum hourly rate which can be charged to the State for partner hourly rate is \$375.00 per hour. Fox agrees that the rate for any other attorneys not listed above who work on this engagement shall be at comparable rates to those above, taking into account each attorney's experience, and the respective discounted rate charged to the State for each such attorney shall be at least a 10% discount of their standard rate. Such rates shall be agreed upon before the attorney(s) not listed herein performs any work. The above fees are subject to adjustment on an annual basis after notice and agreement of the Parties.

The types of work included under the hourly fee arrangement will involve such matters as: (1) curing title defects; (2) resolution of survey discrepancies; (3) resolution of lease rights; (4) responses to requests for general legal advice or opinions from authorized DelDOT staff related to real estate, condemnation and acquisition issues contemplated in the RFP; (5) involvement in negotiations of purchase contracts; (6) review of environmental, land use and regulatory issues as related to eminent domain and other real estate acquisition matters contemplated in this RFP ; (7) involvement in sales or disposition of DelDOT real property; (8) work relating to eminent domain proceedings; and (9) work on real estate matters relating to Section 507 acquisitions.


Property settlement work done under this agreement shall be billed as follows:

- (a) for settlements involving lien searches only (acquisition of \$5,000 or less) – a fee of \$450 per settlement; and
- (b) for full title searches, a flat fee of \$575 per settlement, assuming one chain of title is involved. If the settlement involves more than one chain of title, an additional charge of \$150 per chain of title search will be charged.

4. Fox shall bill DelDOT no more frequently than monthly for hours spent on legal services rendered on behalf of and at the request of DelDOT at the rates agreed to in paragraph 3 of this Agreement. Each invoice shall be in a format customary in the community for Delaware legal billing for services rendered; however, DelDOT shall have the right to request reasonable alterations in the format of the billing, as it deems appropriate. Fox agrees to comply with the *Delaware Department of Justice Outside Counsel Billing Policy*, attached hereto as Exhibit B. Copies of the bill should be sent to the Director of Outside Counsel, the State Solicitor and Governor's Counsel. Bills shall be paid as provided by State law. In the event DelDOT, the State, the Delaware Department of Justice ("DOJ") or the Governor's Counsel questions the substance of any bill or any item of work performed, Fox shall provide such additional information as may reasonably be requested, and Fox shall not charge any additional amount for any discussion, extra documentation or additional information required to settle any dispute regarding any issue related thereto.
5. Fox agrees that it shall perform legal services as directed by the DOJ and DelDOT and that DelDOT, the State and the DOJ shall have the right to receive copies of all documents, submissions, filings, and/or pleadings, in order to monitor, direct, and/or participate in the performance of legal services by Fox under this Agreement.
6. Fox agrees that all documents generated by it under this Agreement, including research, belong to the DOJ, DelDOT and the State and upon request will be provided. DelDOT, DOJ and the State shall have the right to use any such work product or documents as they deem is in the interest of the State, without additional compensation to Fox apart from the compensation earned under this Agreement.
7. Fox provided the State a Certificate of Insurance from ALAS effective through 1/1/2012, indicating the amount and nature of Fox's professional liability insurance coverage under policy no. 1933. *See* Insurance Certificate, attached hereto as Exhibit C.
8. Fox performed an initial screening for potential conflicts of interest and has disclosed that it is not aware of any potential or perceived conflicts of interest.

Within thirty (30) days of the execution of this Agreement, Fox shall perform a comprehensive conflicts check and provide a written report to the State of any potential or actual conflicts of interest it has or may have not only with the State, but with any agency thereof. Such notice shall provide the names of the parties represented, the nature of the case and the actual or potential conflict. Likewise, during the term of this Agreement, Fox shall inform the State of any actual or potential conflict that must be disclosed as required by the Delaware Lawyers' Rules of Professional Conduct. Fox shall submit any conflicts request to the

Director of Outside Counsel at the DOJ and the Counsel for Governor, it shall not commence work on any matter until such time as it has notified the State in writing as required by this paragraph and received a written waiver of the conflict signed by the State Solicitor and the Counsel to the Governor. Fox understands and acknowledges that should the State choose not to waive the conflict, the State is free to obtain such legal services as necessary from other counsel as it deems appropriate.

9. Fox understands and acknowledges that DelDOT will work with Fox to perform the legal work covered by this Agreement through the DOJ. Nothing in this Agreement restricts the DOJ's ability to do so or guarantees Fox the right to perform any legal services, except those that DelDOT specifically requests Fox to perform. DelDOT shall have the right to transfer its work to another firm, at its discretion, in the event the primary attorney working on DelDOT matter(s) changes firm affiliation.
10. The Attorney General reserves the right to object to any position that is contrary to federal or state laws or regulations. No position shall be deemed to be the position of the State if disapproved by the Attorney General. No opinion rendered by ~~GGH~~ may be represented as an opinion of the Attorney General nor does this provision waive any rights of the Attorney General under the Delaware Constitution, Statutes or Common Law. 
11. Prior to incurring any exceptional costs to be charged to DelDOT, Fox shall consult with DelDOT and the DOJ and obtain their approval. Exceptional costs does not include filing fees, title search fees, recording fees, copying costs and other miscellaneous fees typically incurred in representing DelDOT in condemnation and real estate matters.
12. The validity of this Agreement and the rights and obligations of the Parties hereunder shall be determined in accordance with the laws of the State of Delaware and no other, except to the extent that federal law is applicable. Any litigation which may be instituted between the State and the Fox regarding this Agreement shall be filed and litigated in the State of Delaware.
13. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement as of the date first above written.

FOX ROTHSCHILD LLP

Wilmington, Delaware

Original on File

By

Gregory B. Williams, Partner

DEPARTMENT OF TRANSPORTATION

STATE OF DELAWARE

Wilmington, Delaware

Original on File

By:

Cleon L. Cauley, Sr., Acting Secretary

APPROVED:

Original on File

Original on File

By:

Jack A. Markell
Governor
State of Delaware

By:

Joseph R. Biden, III
Attorney General
State of Delaware

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is effective as of the 30th day of March, 2011, by and between Griffin & Hackett, P.A. ("G&H"), and the Delaware Department of Transportation ("DelDOT") for the State of Delaware ("State"), with the approval of the Governor and the Attorney General.

WITNESSETH:

WHEREAS, on August 25, 2010, a Request for Proposal ("RFP") was issued by DelDOT to engage a law firm to act as Special Real Estate Counsel ("Special Real Estate Counsel") to represent DelDOT's real estate section in matters relating to the processing of eminent domain actions for both DelDOT projects and those in accordance with 17 Del. C. Section 507, together with the settlements for those Section 507 acquisitions. Secondary responsibilities will be for those project property settlements which DelDOT's in house legal section delegates to Special Real Estate Counsel and,

WHEREAS, it is the stated intent of DelDOT to engage (2) two law firms to represent DelDOT as Special Real Estate Counsel; and,

WHEREAS, DelDOT received and evaluated proposals from (4) four law firms interested in acting as Special Real Estate Counsel for the State and interviewed (3) three firms; and,

WHEREAS, DelDOT has determined to engage G&H to act as Special Real Estate Counsel, and wishes to enter into this Agreement with G&H because the proposal submitted by G&H was technically superior, and meets the needs of DelDOT. *See* G&H's Proposal dated September 15, 2010, attached hereto as Exhibit A.

NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, G&H and the DelDOT (collectively the "Parties") hereto agree as follows:

1. Pursuant to 29 *Del. C.* §2507, G&H is hereby appointed and employed as a Special Real Estate Counsel for DelDOT.
2. G&H agrees to serve as Special Real Estate Counsel for DelDOT and perform such legal duties as assigned by the State for a period of three (3) years and shall be eligible to commence providing legal services on March 30, 2011 and continue for three (3) years from this date unless earlier terminated. Extensions of

this Agreement for two (2) additional one (1) year periods may be made by mutual written agreement of the Parties. Notwithstanding the preceding, the Parties acknowledge that this Agreement is subject to termination at will by either party, with or without cause.

3. G&H agrees that it will assign members of its firm listed below to perform the legal services under this Agreement. G&H has discounted its normal billing rates for its attorneys as indicated below:

	<u>Standard Rate</u>	<u>Discounted Rate</u>
James D. Griffin, Partner	\$300.00	\$200.00
Vincent G. Robertson, Partner	\$275.00	\$200.00
Michael R. Smith, Associate	\$225.00	\$200.00

G&H agrees that the rate for any other attorneys who work on this engagement shall be at comparable rates to those above, taking into account each attorney's experience. The above fees are subject to adjustment on an annual basis after notice and agreement of the Parties.

Fees for real estate settlements shall be as follows:

Attorneys Fee	\$400 (up to \$500,000.00) \$750 (up to \$1,000,000.00) \$to be determined (over \$1,000,000.00)
Deed	\$200
Administrative Fee	\$50
Satisfaction and Release	\$100
Lien Payoff Request	\$100
Title Insurance Binder Fee	\$25
Owners Title Insurance	\$at rates established by Ins. Commissioner

4. G&H shall bill DelDOT no more frequently than monthly for hours spent on legal services rendered on behalf of and at the request of DelDOT at the rates agreed to in paragraph 3 of this Agreement. Each invoice shall be in a format customary in the community for Delaware legal billing for services rendered; however, DelDOT shall have the right to request reasonable alterations in the format of the billing, as it deems appropriate. G&H agrees to comply with the *Delaware Department of Justice Outside Counsel Billing Policy*, attached hereto as Exhibit B. Copies of the bill should be sent to the Director of Outside Counsel, the State Solicitor and Governor's Counsel. Bills shall be paid as provided by State law. In the event DelDOT, the State, the Delaware Department of Justice ("DOJ") or the Governor's Counsel questions the substance of any bill or any item of work performed, G&H shall provide such additional information as may reasonably be requested, and G&H shall not charge any additional amount for any discussion, extra documentation or additional information required to settle any dispute regarding any issue related thereto.

5. G&H agrees that it shall perform legal services as directed by the DOJ and DelDOT and that DelDOT, the State and the DOJ shall have the right to receive copies of all documents, submissions, filings, and/or pleadings, in order to monitor, direct, and/or participate in the performance of legal services by G&H under this Agreement.
6. G&H agrees that all documents generated by it under this Agreement, including research, belong to the DOJ, DelDOT and the State and upon request will be provided. DelDOT, DOJ and the State shall have the right to use any such work product or documents as they deem is in the interest of the State, without additional compensation to G&H apart from the compensation earned under this Agreement.
7. G&H provided the State a Certificate of Insurance from CNA dated 7/30/2010, indicating the amount and nature of G&H's professional liability insurance coverage under policy no. 287275241 and a Policy Change dated 9/20/2010. The State deems this insurance to be acceptable. *See* Insurance Certificate, attached hereto as Exhibit C.
8. G&H performed an initial screening for potential conflicts of interest and has disclosed that it is not aware of any potential or perceived conflicts of interest. G&H has disclosed that it has and continues to represent Sussex County, various school districts and other governmental agencies.

Within thirty (30) days of the execution of this Agreement, G&H shall perform a comprehensive conflicts check and provide a written report to the State of any potential or actual conflicts of interest it has or may have not only with the State, but with any agency thereof. Such notice shall provide the names of the parties represented, the nature of the case and the actual or potential conflict. Likewise, during the term of this Agreement, G&H shall inform the State of any actual or potential conflict that must be disclosed as required by the Delaware Lawyers' Rules of Professional Conduct. G&H shall submit any conflicts request to the Director of Outside Counsel at the DOJ and the Counsel for Governor, it shall not commence work on any matter until such time as it has notified the State in writing as required by this paragraph and received a written waiver of the conflict signed by the State Solicitor and the Counsel to the Governor. G&H understands and acknowledges that should the State choose not to waive the conflict, the State is free to obtain such legal services as necessary from other counsel as it deems appropriate.

9. G&H understands and acknowledges that DelDOT will work with G&H to perform the legal work covered by this Agreement through the DOJ. Nothing in this Agreement restricts the DOJ's ability to do so or guarantees G&H the right to perform any legal services, except those that DelDOT specifically requests G&H to perform.

10. The Attorney General reserves the right to object to any position that is contrary to federal or state laws or regulations. No position shall be deemed to be the position of the State if disapproved by the Attorney General. No opinion rendered by G&H may be represented as an opinion of the Attorney General nor does this provision waive any rights of the Attorney General under the Delaware Constitution, Statutes or Common Law.
11. Prior to incurring any costs to be charged to DelDOT, G&H shall consult with DelDOT and the DOJ and obtain their approval.
12. The validity of this Agreement and the rights and obligations of the Parties hereunder shall be determined in accordance with the laws of the State of Delaware and no other, except to the extent that federal law is applicable. Any litigation which may be instituted between the State and the G&H regarding this Agreement shall be filed and litigated in the State of Delaware.
13. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement as of the date first above written.

GRIFFIN & HACKETT, P.A.

Georgetown, Delaware

Original on File

By: _____
Vincent G. Robertson, Esquire

DEPARTMENT OF TRANSPORTATION

STATE OF DELAWARE

Wilmington, Delaware

Original on File

By: _____
Cleon L. Cauley, Sr., Acting Secretary

APPROVED:

Original on File

By: _____
Jack A. Markell
Governor
State of Delaware

Original on File

By: _____
Joseph R. Biden, III
Attorney General
State of Delaware