

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 23-106

APPROVAL OF THE 3RD AMENDMENT TO CONTRACT WITH KEATING,
BUCKLIN & MCCORMACK RELATING TO THE DOLD MATTER

WHEREAS, on March 21, 2017, Sheriff's deputies responded to a 911 call. An extended altercation between deputies and a 29-year-old suspect, Alexander W. Dold, ensued. It is our understanding that both impact weapons and a Taser were used during the altercation. Once a total of six law enforcement officers arrived, Mr. Dold was able to be controlled. Mr. Dold subsequently became unresponsive, deputies' efforts to revive him were unsuccessful, and he passed away. The incident is currently being investigated by Snohomish County Multiple Agency Response Team (SMART); and,

WHEREAS, on March 10, 2020, Plaintiffs' Jennifer Dold (sister and Personal Representative of Alexander Dold's Estate) and Kathy Duncan (Alexander Dold's mother) filed a lawsuit in United States District Court for the Western District of Washington, Case No. C20-383-RAJ; and

WHEREAS, the Rules of Professional Conduct preclude the Civil Division from representing Snohomish County, former employees of Snohomish County, and former employees of Snohomish County and volunteers acting on behalf of Snohomish County where a conflict of interest may exist, and which require outside counsel to provide representation in the civil lawsuit; and

WHEREAS, the Snohomish County Prosecuting Attorney, consistent with his authority under state law, county charter and county code, procured a Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin and McCormack for the purpose representing Snohomish County Sheriff's Deputy Cody McCoy; and

WHEREAS, the Snohomish County Prosecuting Attorney subsequently discovered a conflict exists with representing Snohomish County Deputy Bryson McGee and, consistent with his authority under state law, county charter and county code, procured a 1st Amended Contract for Legal Services to include Deputy McGee and include Richard B. Jolley as co-counsel with Shannon Ragonesi; and

WHEREAS, the initial Contract for Legal Services with Shannon Ragonesi at Keating Bucklin and McCormack executed on April 7, 2020, was not to exceed \$50,000; and

WHEREAS, the 1st Amended Contract for Legal Services with Shannon Ragonesi and Richard Jolley at Keating Bucklin and McCormack, executed on December 15, 2021, was not to exceed \$150,000; and

WHEREAS, the 2nd Amended Contract for Legal Services with Shannon Ragonesi and Richard Jolley at Keating Bucklin and McCormack, executed on June 1, 2022, was not to exceed \$250,000; and

WHEREAS, litigation is still ongoing and will likely continue for the unforeseeable future;

NOW, THEREFORE, ON MOTION, the Snohomish County Council authorizes the County Executive to sign the attached 3rd Amendment to Contract with Keating, Bucklin & McCormack Relating to the Dold Matter in an amount not to exceed \$325,000.00.


PASSED this 22nd day of March, 2023.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Deputy Clerk of the Council

3rd AMENDED CONTRACT FOR LEGAL SERVICES
(TORT LITIGATION)

SNOHOMISH COUNTY, through the office of the Prosecuting Attorney (hereinafter referred to as the “County”), SHANNON M. RAGONESI, RICHARD B. JOLLEY and SEAN M. DWYER of the law firm of Keating, Bucklin & McCormack (hereinafter referred to as the “Attorneys”), in consideration of the mutual promises contained herein agree as set forth below.

This 3rd amended agreement is entered into between the County and the Attorneys for the express and limited purpose of amending Section III of the original Contract for Legal Services, fully executed on April 7, 2020; Section III of the 1st Amended Contract for Legal Services as agreed to by the County and the Attorneys and approved by the Snohomish County Council on December 15, 2021; and Section III of the 2nd Amended Contract for Legal Services as agreed to by the County and Attorneys and approved by the Snohomish County Council on June 1, 2022:

I. PURPOSE

On April 7, 2020, Snohomish County entered into a contract with the Attorneys to defend former Snohomish County Sheriff’s Office Deputy Cody McCoy in the matter of *Jennifer Dold, Personal Representative of the Estate of Alexander Dold; and Kathy Duncan, mother of Alexander Dold v. Snohomish County, a political subdivision of the State of Washington; Bryson McGee; and Cody McCoy* (United States District Court No. 2:20-cv-00383-RAJ). On August 28, 2021, the Honorable Richard A. Jones granted the County’s Motion for Withdrawal and Substitution, allowing the withdraw and substitution of Mr. McGee’s representation from the County to the Attorneys.

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II. SCOPE OF WORK AND DUTY OF THE ATTORNEYS

The Attorneys shall act as independent counsel for and represent Deputy Bryson McGee and Deputy Cody McCoy in the matter of *Jennifer Dold, et al. v. Snohomish County, et al.*, United States District Court No. 2:20-cv-00383-RAJ.

The Attorneys shall advise the Snohomish County Prosecutor and the Snohomish County Executive's Office and/or Snohomish County Risk Manager Sheila Barker in the event Deputy McGee or Deputy McCoy fail or refuse to cooperate with representation by Attorneys and/or either deputy hires an attorney at his own expense to represent him in this lawsuit.

III. FEES AND EXPENSES

The County shall pay Attorneys for services provided relating to the above described services at Attorneys' standard billing rate for such services, provided such rate does not exceed \$285 for shareholders, \$252 for senior associates and \$246 for junior associates per hour, plus reasonable expenses. The Attorneys may delegate services to other counsel in the firm or legal assistants employed by Attorneys to assist them in providing legal services under this agreement in a cost effective manner, provided that other counsel and legal assistants shall work at the specific direction and subject to the approval of Attorneys. The aggregate fee for Attorneys' services shall not exceed **\$325,000.00** without the prior written consent of Snohomish County. The term "reasonable expenses" shall include filing fees, witness fees, travel expenses, copying, long distance telephone calls, preparation of transcripts, expenses of depositions, and other incidental expenses at cost to the Attorneys, but does not include ordinary overhead such as office, secretary, or paralegal expenses, stationary costs, and other expenses not directly incident to a specific request for services.

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IV. PAYMENT

All fees and expenses shall be billed monthly. Billings shall be directed to Snohomish County Risk Manager Sheila Barker, and reference either the lawsuit by name or by the Snohomish County Prosecuting Attorney's file number C20-027.

V. DURATION OF CONTRACT

This contract shall be in effect as of the date it is executed, and shall continue, unless terminated, until the conclusion of litigation.

VI. NON-DISCRIMINATION

The Attorneys shall comply with the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification by the Attorneys of the Attorneys' compliance with the requirements of Chapter 2.460 SCC. If the Attorneys are found to have violated this provision or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this contract may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Attorneys' obligations under other federal, state, or local laws against discrimination.

VII. TERMINATION

The County may terminate this contract as to any Attorney providing service under this contract who violates any provision of this contract, or any rule of professional conduct or other law, or is subject to discipline under the Rules for Lawyer Discipline. In case of termination, the County shall pay Attorneys for all services provided in accordance with this contract through the date of termination. Upon notice of termination, no further fees or expenses may be incurred

except to the extent necessary to safeguard the interest of the County as authorized by Snohomish County Risk Manager Sheila Barker.

Pursuant to SCC 2.90.085, this contract may also be terminated as to representation of Deputy Cody McCoy and Deputy Bryson McGee upon the following conditions:

1. Deputy McGee or Deputy McCoy fail or refuse to cooperate with representation by Attorneys; or
2. Deputy McGee or Deputy McCoy hire an attorney at his expense to represent him in this lawsuit.

VIII. RELATIONSHIP OF PARTIES

Attorneys agree that Attorneys will perform services under this agreement as independent contractors and not as agents, employees, or servants of County. Attorneys and their employees are not entitled to any benefits or rights enjoyed by employees of the County.

IX. NON-ASSIGNMENT

Attorneys shall not subcontract, assign, or delegate any of its rights or duties under this agreement except as provided in this agreement.

X. GOVERNING LAW AND VENUE

This agreement shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit regarding this agreement must be brought in Snohomish County, Washington.

XI. CHANGES

No changes or additions shall be made in this contract except as agreed to by both parties and reduced to writing and executed with the same formalities as are required for the execution of this agreement.

XII. WARRANTY, HOLD HARMLESS, AND INSURANCE REQUIREMENTS

1. Attorneys represent and warrant that each Attorney providing services under this contract is a member in good standing of the Washington State Bar Association that no disciplinary proceedings are pending against them, that all necessary investigations have been made to identify conflicts, and that all conflicts have been disclosed and will continue to be disclosed to County. Attorneys further warrant that they carry and will maintain adequate professional liability insurance for work performed under this agreement during the term of this agreement. Attorneys shall disclose such insurance coverage to County upon request.

2. Attorneys shall protect, save harmless, indemnify, and defend, at their own expense, Snohomish County, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Attorneys' negligence, intentional, tortious, or wrongful acts in the performance of this agreement, including claims by Attorneys' employees or third parties. This provision shall not include claims or judgments for professional negligence, which are addressed in paragraph 3 below.

3. Attorneys shall protect, save harmless, and indemnify, at their own expense, Snohomish County, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Attorneys' professional negligence, which shall include, but is not limited to, any act covered by professional liability insurance maintained continuously by Attorneys for the duration of this contract. Claims based on legal malpractice will only be reimbursed after being reduced to judgment or settlement, but Attorneys agree that reimbursement shall include any judgment or settlement amount and all costs incurred by the County in defending the action, including but not limited to reasonable Attorneys' fees and other costs of litigation.

4. Attorneys' insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice has been given to the County. Attorneys shall give the County thirty (30) days' written prior notice of a reduction to or cancellation of coverage, and ten (10) days' notice of cancellation due to non-payment of premium, which the Attorneys shall fax to Snohomish County Risk Management at (425) 388-3499.

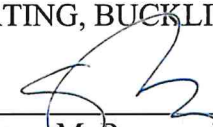
5. All deductibles or self-insured retentions shall be the responsibility of the Attorneys. Deductibles or self-insured retentions in excess of Fifty Thousand Dollars (\$50,000.00) must be disclosed and are subject to approval by the County's Risk Manager.

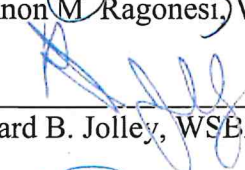
IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as follows:

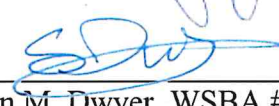
SNOHOMISH COUNTY, a political
subdivision of the State of Washington

Dave Somers Date
Snohomish County Executive

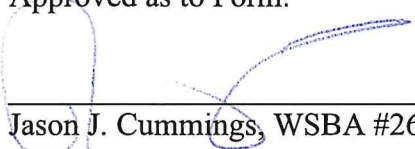
KEATING, BUCKLIN & McCORMACK


 3/2/2023
Shannon M. Ragonese, WSBA #31951 Date

 3/2/2023
Richard B. Jolley, WSEA #23473 Date

 3/2/2023
Sean M. Dwyer, WSBA #57281 Date

Approved as to Form:

 3/3/23
Jason J. Cummings, WSBA #26441 Date

 3/2/23
Geoffrey A. Enns, WSBA #40682 Date