



A LITIGATION PRACTICE
DENVER • LOS ANGELES

November 21, 2024

Via Email Only

Town Council of the Town of Frisco
P.O. Box 4100
Frisco, Colorado 80443
c/o Thad Renaud, Esq.
[trenaud@mdbrlaw.com]

Dear Town Council,

Thank you for selecting Richards Carrington, LLC (“RC”) to represent the Town of Frisco (referred to herein as “you” and/or the “Client”) in the matter described below. The purpose of this letter is to memorialize the scope of the services we are to provide and to make sure the Client understands the basis for determining the fees we charge. The terms set forth herein shall apply to this matter unless RC and the Client agree otherwise, in writing.

1. Scope of Engagement

The scope of the services we have agreed to provide is to represent the Client in connection with investigating potential claims related to a certain construction contract for certain public improvements. The scope of this engagement does not include any appeals or tax advice. Client understands that some of the services to be provided hereunder will be provided prior to Client’s execution of this agreement.

At the commencement and during the course of our representation, RC may express opinions or beliefs concerning this matter, alternative courses of action, or results that might be anticipated. Any such statements made by any RC lawyer is intended to be an expression of opinion only based upon information available to us at the time and should not be regarded as a promise or guarantee.

2. The Client’s Participation

We understand that the Client will be candid and cooperative with us, timely provide us with factual information and documents as we request, keep us informed of developments, be available to confer with us, and make decisions as required to assist us in the progress of our representation. Because it is important that we be able to contact the Client regarding this representation, the Client will promptly inform us of any changes in contact information, including relevant mail and email addresses and telephone numbers. Whenever we need the Client’s instructions or authorization in order to proceed with legal work on its behalf, we will contact the Client at the latest address, email address and/or telephone number we have received from the Client.

3. Fees/Costs

Partners will charge \$475 per hour; Of Counsel attorneys will charge \$415 per hour; associate attorneys will charge \$355 per hour; paralegals will charge \$185 per hour, and legal assistants will charge \$95 per hour. All professionals assigned to this matter will bill their time in one-tenth increments. I will be the partner in charge of this matter, and I will make staffing decisions with the objective of rendering services on the most efficient and cost-effective basis. RC will charge hourly for out-of-state travel time, but such travel time shall be billed at 65% of the traveling professional's (attorney and/or paralegal) hourly billing rate. RC's rates usually increase each calendar year, effective January 1st, without notice to the Client. Those increases are typically included in the first billing statement of each year and, absent an agreement to the contrary, will not exceed five percent (5%) each year.

RC will bill the Client directly for all expenses that RC incurs in the course of providing legal services to the Client, including for all out-of-pocket costs and expenses (which include without limitation court filing fees, court reporter fees, expert fees, legal research costs, and expenses related to cloud-based document hosting services), except for reasonable long-distance charges, copy charges, and facsimile charges.

RC will seek the Client's approval prior to incurring any costs on the Client's behalf in excess of five-thousand dollars (\$5,000) unless RC determines that protection of the Client's interests requires RC to incur such cost or expense prior to consultation with the Client. Please note that costs are distinguishable from attorney's fees—the advance notice set forth herein relates only to costs.

Unless you direct otherwise, our invoices will be submitted to the Client for payment, and it is our understanding that the Client will be responsible for such payment as it comes due. Our statements are customarily issued on a monthly basis and, unless other arrangements are made, payment in full is due within 30 days after the date of the statement. Interest may be charged at one percent simple interest (1%) per month on all balances outstanding for more than 60 days. Please promptly raise any billing concerns.

Should the Client fail to pay these fees/costs as agreed, the Client hereby acknowledges and agrees that the Client will be liable for any fees/costs incurred by RC to enforce this agreement and/or collect the outstanding amount owed from the Client.

4. Retainer

RC is not requesting a retainer at this time but reserves the right to do so.

5. Conflicts

To avoid conflicts of interest, we maintain a record of past and present clients to determine whether a conflict of interest would be created by any new representation. The Client should tell us now, and in the future, whether it anticipates that any other individuals or business entities (beyond those that we have discussed) will be involved in the scope of this engagement.



Unless RC agrees to the contrary, RC’s representation is only of the Client named herein and not any parent, subsidiary, sister corporation, limited liability company, or partnership or any officer, director, manager, member, shareholder, partner, joint venture, or other affiliate (collectively “Client Affiliates”). Please provide us in writing with the names of any Client Affiliates that are so closely related to the Client that we could not represent a party in a matter adverse to them without the Client’s consent.

RC often represents lawyers or law firms, or RC may be represented by another lawyer or law firm in an unrelated matter. We do not believe such relationships create any conflicts but please ask us if you have any concerns about whether such a relationship exists between RC and any attorney or law firm that represents any party who is adverse to the Client. Otherwise, it is agreed that we may represent, or be represented by, lawyers or law firms that also represent persons or entities adverse to the Client.

In some circumstances, the Client may be represented by more than one law firm for a particular matter. With respect to all services performed on the Client’s behalf and all legal representation by RC, RC shall have no duty to supervise or control any other law firms or lawyers.

6. Termination of Attorney-Client Relationship

The Client may terminate RC’s representation at any time, and for any reason, by giving written notice. Likewise, RC may withdraw from this matter at any time, so long as such withdrawal is consistent with the Colorado Rules of Professional Conduct (“RPC”) governing attorney conduct. RC may also terminate performance under this agreement if the Client fails to make any payment called for by this agreement or otherwise fails to meet its obligations under this agreement. Upon termination by either party, the Client agrees to immediately pay any unpaid balance due for legal services or costs and/or agrees that we may use any funds held in trust on the Client’s behalf to pay unpaid invoices. If either party terminates this engagement, RC will make reasonable efforts to provide the Client’s file to another lawyer consistent with the Client’s written instructions. Following the conclusion of the matter described above, RC will retain the Client’s file for a period of ten years pursuant to RPC 1.16A unless (i) the Client requests the file, (ii) the Client authorizes in writing that the file may be destroyed, or (iii) RC provides notice to the Client that the file will be destroyed within 30 days of the notice. RC may retain such file in electronic format only. Finally, note that without further action from RC, our representation of the Client will end 30 days after we issue our final invoice for fees and costs incurred on the matter set forth herein.

7. Arbitration Agreement

By entering into this agreement, the Client agrees that any dispute related to this engagement—including any claim for professional negligence—shall be submitted to voluntary mediation at the Judicial Arbitrator Group in Denver, Colorado within 30 days of written notice of the dispute. If mediation does not resolve the dispute, the Client also agrees that the dispute shall proceed with another 30 days of written notice to binding arbitration at the Judicial Arbitrator Group. In that event, the AAA Commercial Arbitration Rules shall apply to the discovery and hearing of the dispute except that, notwithstanding any AAA Rule, the Federal Rules of Evidence shall determine the admissibility of evidence presented at



the arbitration hearing. No arbitration hearing on the merits of any dispute shall last more than one day, and the arbitrator in that proceeding shall award attorneys' fees and costs to the prevailing party.

PLEASE NOTE: By agreeing to arbitrate any disputes with RC, you are waiving your right to file a lawsuit to resolve such disputes and certain rights you otherwise may have at law (including by way of illustration, any right to a jury trial, to more extensive discovery, to exemplary damages, and broader appellate rights).

8. Confidentiality

We are required by federal law to inform the Client of our policies regarding privacy of client information. In the course of advising the Client, we may collect nonpublic personal information from the Client. You should know that all nonpublic personal information that we receive is held in confidence and is not released to people outside the firm except as necessary to carry out our representation, as otherwise agreed to by the Client, or as required under an applicable law. Although federal law requires us to inform the Client of our policy, it does not limit the attorney-client privilege or the confidentiality rules which are governed by state law and the Rules of Professional Conduct. To guard the Client's nonpublic personal information, we maintain physical, electronic, and procedural safeguards that comply with Colorado's professional standards.

9. Duty to Preserve Evidence, including Electronically Stored Information

The law imposes upon any party a duty to preserve evidence as soon as that party is reasonably aware of the potential for litigation, including without limitation all files, records, and electronically stored information (such as emails, texts, etc.). Failure to preserve evidence can lead to the imposition of severe sanctions by the Court, some of which can be so drastic that they jeopardize the ability to prevail in the litigation.

You must preserve all evidence. To be clear, no potentially discoverable data should be deleted or modified from any computer, cell phone, or other technological device, even if it would otherwise be your normal practice to discard it. **Relatedly, your routine document retention/destruction policies, if any, should be immediately suspended. These policies would include auto-delay functionality, such as auto-deleting text messages after a certain period of time.** This requirement extends to voicemail messages and files, backup voicemail files, text messages and files, back up text message files, e-mail messages and files, backup e-mail files, deleted or destroyed e-mails, data files, program files, temporary files, system history files, web site information stored in textual, graphic, or audio format, web site log files, active data, embedded data, metadata, replicant data, residual data, legacy data, bookmarks, cookies, cache files, and deleted data. This requirement extends to any and all of your agents, consultants, and representatives. Please let us know if you have any questions or concerns about this requirement.

_____ **Client Initials**



10. Email Communications with Your Attorneys

At times, RC communicates via email. Due to its inherent nature, email may be vulnerable to interception by unauthorized parties during transmission. RC cannot guarantee the confidentiality of any information sent by email or that it will be considered attorney-client privileged. If the Client does not wish us to communicate with the Client by email, please notify us at your earliest convenience. In the absence of such notification the Client's consent will be assumed, and RC will not take any additional security measures, including but not limited to encryption. Although RC uses virus protection software that we believe to be reliable, RC cannot warrant that any emails or attachments are free from any virus. RC recommends that the Client and any other recipient independently take steps to ensure any such emails or attachments are virus-free.

You are further advised that RC's communications with the Client are privileged and confidential, but that privilege can be waived if those communications are shared or otherwise disseminated to third parties. It is the Client's obligation to protect the attorney-client privilege, and part of this responsibility includes refraining from forwarding to any third party any email communications RC may send to the Client.

11. Audits

We are sometimes asked by our clients to provide information to auditors or other financial professional for the purposes of preparing financial statements. Should the Client make such an audit request, we may bill the Client for our services in responding to the audit. Should the Client make an audit request at a time when the Client is no longer a client of RC, the Client understands that our responding to the request is an accommodation we provide for former clients and does not form a new attorney-client relationship.

We look forward to working with you on this matter. Although the firm cannot guarantee any certain result, we will do our best to provide you with legal services of the highest quality. If you have any questions concerning the matters set forth in this letter, please do not hesitate to call me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Ch. Carrington".

Christopher P. Carrington
for
RICHARDS CARRINGTON, LLC

~ Signature Page to Follow ~



ACCEPTED AND AGREED TO:

Town of Frisco

Signature: _____

By: _____

Title: _____

Date: _____ *nunc pro tunc* to November 21, 2024

Please complete the following for our file:

Physical Address:

Mailing Address, if different:

Telephone Numbers:

Work

Cell

Email: _____